59.

SUPREME COURT OF THE UNITED STATES.

No. 45.

MARY JAMES EXECUTORS, PLAINTIFF IN ERROR,

VERSUS

ANN R. DERMOTT.

ERROR TO THE CIRCUIT COURT U. S. FOR WASHINGTON, D. C.

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UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Judges of the circuit court of the United States for the District of Columbia, sitting for the county of Washington, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court before you or some of you, between Richard C. L. Moncure and Walter P. Conway, executors of Mary James, plaintiffs, and Ann R. Dermott, defendant, a manifest error hath happened to the great damage of the said Richard C. L. Moncure and Walter P. Conway, executors of Mary James, as by their complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of January next, in said Supreme Court to be then held, and that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right, and according to the laws and custom of the United States should be done.

Witness the honorable Roger B. Taney, Chief Justice of the said Supreme Court.

Issued this 30th day of May, 1838.

W. BRENT, *Clerk Co. Ct. D. C.*
For Washington county.

DISTRICT OF COLUMBIA, *ss:*

The United States of America to Ann R. Dermott, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States on the 2d Monday of January next, pursuant to a writ of error filed in the Clerk's office of the circuit court of the United States for the District of Columbia, in the county of Washington, wherein Richard C. L. Moncure and Walter P. Conway, executors of Mary James, are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said Richard C. L. Moncure and Walter P. Conway, executors of Mary James in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the honorable William Cranch, chief judge of the circuit court of the District of Columbia, this 30th day of May, 1838.

Service acknowledged.

W. JONES.

Know all men by these presents, that we, Richard C. L. Moncure, and Walker P. Conway and Duff Green, are held and firmly bound unto Ann R. Dermott in the full and just sum of five hundred dollars current money of the United States, to be paid to the said Ann R. Dermott, her certain attorney, executors, administrators, or assigns, to which payment well and truly to be made and done, we bind ourselves and each of us, one, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this 30th day of May, Anno Domini, 1838.

Whereas, lately, at a circuit court of the District, sitting for Washington county, in a suit pending in the said court, wherein the said Richard C. L. Moncure and Walker P. Conway, executors of Mary James, were plaintiffs, and the said Ann R. Dermott, was defendant, judgment was rendered against the said plaintiffs, and they having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Ann R. Dermott, citing and admonishing her to be and appear at a Supreme Court of the United States to be holden at Washington on the Monday of next.

Now the condition of the above obligation is such, that if the said Richard C. L. Moncure and Walker P. Conway, executors of Mary James, shall prosecute their said suit to effect, and answer all damages and costs, if they fail to make their plea good, then the above obligation to be void; otherwise, to be and remain in full force and virtue.

Signed, sealed, and delivered in presence of J. B. FICKLEA.

R. C. L. MONCURE, [SEAL,]
W. P. CONWAY, [SEAL.]
D. GREEN, [SEAL.]

Copy, Test:
W. BRENT, *Clerk.*

[Approved—W. Cranch.]

DISTRICT OF COLUMBIA, *ss:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-sixth day of the same month, in the year of our Lord one thousand eight hundred and thirty-eight, and of the Independence of the United States the sixty-second.

PRESENT.

WILLIAM CRANCH, *Chief Judge.*
The hon. BUCKNER THRUSTON, and JAMES S. MORSELL, *Assistant Judges.*

ALEXANDER HUNTER, Esq., *Marshal.*

WM. BRENT, *Clerk.*

In the records of the proceedings of the said Court, among others are the following, to wit:

RICHARD C. L. MONCURE, and WALKER P. CONWAY, executors of Mary James, *against* ANN R. DERMOTT.

Be it remembered, that heretofore, to wit: on the twenty-fifth day of July, in the year of our Lord one thousand eight hundred and thirty-four, the said plaintiffs, by Key and Dunlop, Esquires, their attornies, prosecuted and sued forth out of the circuit court; here the United States writ of capias ad respondendum, directed to the Marshal of the District of Columbia, in the words and of the tenor following, to wit:

Capias.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America to the Marshal of the District of Columbia, greeting:

We command you, that you take Ann R. Dermott, late of Washington county, if she shall be found within the county of Washington in your said district, and her safely keep, so that you have her body before the circuit court of the District of Columbia, to be held for the county of Washington, at the city of Washington, on the fourth Monday of November next, to answer unto Richard C. L. Moncure and Walker P. Conway, executors of Mary James, in a plea wherefore she broke the covenant made and entered into with the said Mary James, in her life time, and so forth.

Hereof fail not at your peril, and have you then and there this writ.

Witness, William Cranch, Esq., chief judge of our said court, at the city of Washington, the 30th day of June, Anno Domini eighteen hundred and thirty-four.

Issued the 25th day of July, 1834.
(K. & D.) W. BRENT, *Clerk.*

And the aforesaid plaintiffs, on the day of prosecuting and suing forth of the aforesaid writ, declared against the said defendant in the plea aforesaid, in form following, to wit:

Nar.

DISTRICT OF COLUMBIA, *Washington county, ss:*

And whereupon the said Richard C.L. Moncure and Walker P. Conway, executors of the last will and testament of Mary James, the plaintiffs, by Key and Dunlop, their attornies, say, that whereas by certain articles of agreement, made and fully agreed on the twelfth day of August, eighteen hundred and twenty-nine, at Washington county aforesaid, between the said Mary James, in her life time, and the said Ann R. Dermott, the defendant, and which said agreement, sealed *sealed* with the seal of said defendant, bearing date the day and year aforesaid, the said plaintiffs now bring into court here, reciting that "whereas the said Mary James has executed her bond or note, dated the 28th day of November, 1828, payable to the said Ann R. Dermott, for the sum of twenty-six hundred and twenty dollars, which said bond or note, was merely loaned to the said Ann R. Dermott, for the purpose of raising money upon, and whereas the said Ann R. Dermott, since the execution of the said bond or note as aforesaid, assigned it to Philip Alexander, of Fredericksburgh, for value received of him," she, the said defendant, covenanted and agreed to and with the said Mary James, in her life time, and bound herself, her heirs, executors and administrators, to pay and discharge the said bond or note, with all interest that might accrue thereon to the said Alexander, when the same should become due and payable, and the said plaintiffs in fact say, that although the said Mary James, in her life time, and the plaintiffs, her executors, since her death, have done and performed all things in her and their part faithfully, contained in said articles, she, the defendant, hath not kept and performed her agreement and covenant contained in said articles, but hath wholly broke the same, in this, that she did not pay, and has not paid, to the said Alexander, the amount of said bond or note, and interest, when it became due and payable, but wholly failed and refused so to do, whereby the said plaintiffs as executors aforesaid, have been obliged to advance and pay, and did advance and pay the amount of said bond or note, and interest accrued thereon, amounting to the sum of twenty-three hundred seventy-one dollars ninety-eight cents, to the said Philip Alexander, to wit: six hundred dollars on the *on the* 6th December, 1833, and the residue on the 28th December, 1833, out of the assets and effects of the said Mary their testator, at the county aforesaid, of which advance and payment the said defendant had notice, the day and year aforesaid at the county aforesaid, and so the plaintiffs further say that action has accrued to them as such executors, to have and demand of the said defendant the said sum of $2,371 98, with interest from 6th December, 1833, on $600, and on the residue from the 28th December, 1833, according to her said covenant; yet the said defendant

not regarding her said covenant, did not and would not pay said bond or note, to said Alexander, and has not paid and will not pay the said sum of $2,371 98 and interest, or any part thereof, to the said plaintiffs, but has hitherto refused and still refuses to pay the same, to the damage of the said plaintiffs, four thousand dollars, to which said plaintiffs letters testamentary on the last will of the said Mary, have been duly committed by the county court of Stafford county, Virginia, and therefore they bring suit and so forth.

JOHN DOE and RICHARD ROE, } Pledges, &c.

KEY & DUNLOP,
For Plaintiffs.

November term, 1834.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-four, and the day of the return of the aforegoing writ, comes into the circuit court here, the said plaintiffs, by their attornies aforesaid, and the Marshal of the District aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

A. HUNTER, *Marshal.*"

Marshal's Return.

"*Cepi.*"

And the said defendant being called, appears in court here by Walter Jones, Esquire, her attorney, and thereupon on motion of the said plaintiffs, by their attornies aforesaid, it is ruled by the court here that the said defendant give special bail in the plea aforesaid, or in default thereof, be committed to the custody of the marshal of the District aforesaid, thereupon a certain Christopher Andrews, present here in court in his proper person, (with the consent of the said plaintiffs by their attornies aforesaid,) undertakes for the said defendant, that in case the aforesaid plaintiffs shall recover judgment against the said defendant in the plea aforesaid, or that the said defendant shall be therein legally convicted, that then the said defendant shall pay the "condemnation of the court thereupon, or render her body to the custody of the Marshal of the District aforesaid in satisfaction thereof, or that he, the said Christopher Andrews, will do the same for her.

Rule Plea.

And thereupon on motion of the said plaintiffs, by their attornies aforesaid, it is ruled by the court here that the said defendant answer to the declaration aforesaid of the said plaintiffs, in the plea aforesaid, or

judgment by the court here will be entered against her in default thereof, and the said defendant by her attorney aforesaid, defends the force and injury when and so forth, and prays leave of the court to imparle until the fourth Monday of March next, and then to answer to the declaration aforesaid of the said plaintiffs in the plea aforesaid, and to her it is granted, and the same day is given to the aforesaid plaintiffs also.

March term, 1835.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-five, to which said day the said defendant had leave to imparle, and then to answer to the declaration aforesaid of the said plaintiff in the plea aforesaid, comes again into the circuit court here, as well the said plaintiffs by their attorneys aforesaid, as the said defendant by her attorney aforesaid, and the said defendant by her attorney aforesaid, as before, defends the force and injury, when, and so forth, and saith that she did not assume upon herself, in manner and form as the aforesaid plaintiffs above, against her have complained, and of this she puts herself upon the country, and the said plaintiffs in like manner and so forth, and the parties aforesaid by their attornies aforesaid, thereupon entered into the following agreement, which, by their consent, and by order of the court here is entered of record as follows:

JAMES'S EXECUTORS,
vs.
DERMOTT.

Memo: It is agreed that on the trial of the issue in this case, the defendant may give usury in evidence in the same manner as if specially pleaded.

KEY & DUNLOP,
For Plaintiffs.
W. JONES,
For Defendants.

Venire facias to.

Therefore let a jury therein appear before the court here on the fourth monday of November next, by whom, &c., and who neither &c., to recognise, &c., because as well, &c., and the same day is given to the aforesaid parties then and there, and so forth.

November term, 1835.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-five, comes again into the circuit court here, as well the said plaintiffs by their attornies aforesaid, as the said defendant by her attorney aforesaid; thereupon

further process of, and upon, the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attornies aforesaid, and by order of the court here, thereon the said cause is continued until the fourth Monday of March next.

March term, 1836.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-six, to which said day the said cause was continued, comes again into the circuit court here, as well the said plaintiffs by their attornies aforesaid, as the said defendant by her attorney aforesaid; thereupon further process of, and upon, the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attornies aforesaid, and by order of the court here, thereon is further continued until the fourth Monday of November next.

November, 1836.

At which said fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-six, came again into the circuit court here, as well the said plaintiffs by their attorney aforesaid, as the said defendant by her attorney aforesaid; thereupon further processs of, and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attornies aforesaid, and by order of the court here, thereon the said cause is further continued until the fourth Monday of March next.

March term, 1837.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-seven, to which said day the said cause was continued, came again into the circuit court here, as well the said plaintiffs by their attornies aforesaid, as the said defendant by her attorney aforesaid; thereupon further process of, and upon, the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attornies aforesaid, and by order of the court here, therein the said cause is further continued until the fourth Monday of November next.

November term, 1837.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-seven, to which said day, the said cause was continued, comes again into the circuit court here, as well the said plaintiffs by their attornies aforesaid, as the said defendant by her attorney aforesaid; thereupon further process of, and upon, the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attornies aforesaid, and by order of the court here, thereon the said cause is further continued until the fourth Monday of March next.

March term, 1838.

And now, to wit, the said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-eight, came again into the circuit court here, as well the said plaintiffs by their attornies aforesaid, as the said defendant by her attorney aforesaid; whereupon for trying the issue aforesaid, it is ordered by the court here, that twenty persons be drawn by ballot, from the pannel of petit jurors, returned by the Marshal to the court here, and twenty persons being so drawn, and a list of their names being furnished each of the parties, and the counsel of the parties having each stricken out four persons from the lists, thereupon the remaining twelve persons, being called, came, to wit:

Jury.

1 Walter Clarke,	7 John Mount,
2 Edward Lacy,	8 George Crandall,
3 Joseph Brooks,	9 John B. Ferguson,
4 Robert E. Kerr,	10 James Marshall,
5 Nicholas Callan,	11 Charles Butler,
6 Robert Keyworth,	12 Henry Haw.

Who being empannelled and sworn to say the truth in the premises, upon their oath, do say,

Verdict.

That the said defendant hath kept, performed, fulfilled and observed, all and singular the covenants, &c., in the said writing contained, by her to be kept, performed, fulfilled and observed, as the said defendant above, by pleading, hath alleged.

Judgment on verdict.

Therefore it is considered by the court here, that the said plaintiffs take nothing by their writ aforesaid, but be in mercy for their false clamor, &c., and that the said defendant go thereof without day, &c., and it is also considered that the said defendant recover against the said plaintiffs the sum of dollars and cents, by the court here unto her adjuged, for her costs and charges, by her about her suit in this behalf laid out and expended, and that she have thereof her executions, &c.

Test:

W. BRENT, *Clerk.*

Memorandum.—Before the jurors, aforesaid, withdrew from the bar of the court here, the said plaintiffs, by their attornies aforesaid, filed in court here the following bills of exceptions, to wit:

In the trial of this cause, the plaintiff offered in evidence, the covenant in the declaration mentioned, the execution of which was admitted by the defendant, and further offered in evidence, the receipt of Philip Alexander, and the note and statement thereto annexed, and proved the handwriting of said Alexander, all which papers are annexed to the original affidavit of John Moncure, hereafter mentioned, as exhibits marked A, C, and are hereto annexed, (copied in pages 29, 31.)

Whereupon the defendant offered, and read in evidence to the jury by consent, the following depositions, with the several documents and papers referred to, and described in the cross-examination of John Moncure; and in the depositions of Philip Alexander and W. C. Beale; all which depositions and exhibits are hereto annexed (copied in page ,) and further proved by a competent witness, that the defendant resided in Virginia with her aunt, the plaintiff's testatrix, in November, 1828, and continued so to reside with her until about 25th Dec'r. 1828, then came on a visit to Washington; and then returned to a place adjoining the residence of her aunt, and lived for some time in a house within half a mile of the dwelling of said Mary James; where she resided till the spring of 1833, when she removed to Washington, (before the death of said testatrix,) where she has resided ever since; and the plaintiffs counsel then offered in evidence the following letters, admitted to be in defendants handwriting, (copiedin pages 90, 95,) and the plaintiff then prayed the court, to instruct the jury that it is not competent for the defendant in this action to deny by plea or otherwise, the validity of the note of 28th November, 1828, recited in the covenant on which this suit is brought, and that she is estopped from setting up in this action any alleged usury, as affecting the validity of said note; that the plaintiff's are entitled to recover in this action the sums which the jury are satisfied from the evidence, were paid by the plaintiff's to Philip Alexander, on the bond dated 28th November, 1828, unless the defendant proves to the jury, that before such payments, the plaintiff's were notified that the bond of 28th N'r. 1828, was tainted with usury, and instructed to dispute the same, which the court refused. And then further prayed the court to instruct the jury as follows: that if the jury should believe from the evidence, that the note of Mary James to the defendant, assigned by Alexander, dated 28th November, 1828, was made on an usurious agreement entered into between said defendant and said Alexander, but that the plaintiffs had no knowledge of such usury at the time they were called upon to pay the balance due on the note, nor at any time before, and paid the same under the belief that the same was bona fide due, and without any knowledge that there was any objection to the validity of said note; and without any notification or communication from the defendant, then the plaintiffs are entitled to recover, unless the jury should be satisfied from the evidence, that the said Mary James knew of the said usurious agreement, under which the said note was given and assigned as aforesaid, which

the court also refused; and further prayed the court as follows, that if the jury should believe from the evidence, that the note of Mary James, the defendant assigned by her to Alexander, dated 28th November, 1828, was made on an usurious agreement, entered into between said defendant and said Alexander, but that the plaintiffs had no knowledge of such usury, at the time they were called upon to pay the balance due on the note, nor at any time before, and paid the same under the belief that the same was bona fide due, and without any knowledge that there was any objection to the validity of said note, and without any notification or communication from the defendant; and if the jury believe from the evidence the defendant waived and abandoned all objection to the validity of said note, and assented, that the same should be considered as a valid and legal obligation, then the plaintiffs are entitled to recover. And it is competent for the jury to infer such waiver and assent, if they shall believe from the evidence that the defendant, after obtaining said money, made payments of interest, as the same became due, and expressed her desire and intention to pay the said note, and her anxiety to save her aunt's property from sale under the said deed of trust, which the court also refused. To all which refusals by the court to give the said several instructions as prayed, the plaintiffs except.

And the plaintiff's counsel then further prayed the court as follows, that if the jury believe from the evidence, that there was no loan of money from Alexander to defendant, secured by the bond of the 28th November, 1828, but that the said bond was bona fide purchased by said Alexander of defendant, at a discount exceeding the legal rate of interest, the said Alexander not knowing, when he purchased said bond, that the same was loaned by Mary James to the defendant solely to raise money on, the transaction is not usurous, and the plaintiffs are entitled to recover in this action, the monies paid by them to Alexander on said bond, and further, if the jury should believe that Philip Alexander, when he paid the money and took the note as aforesaid, intended to buy the said note for the amount given on it, not knowing that the note was made by Miss James to defendant, in ordee to raise money on it and did not mean by disguising the advance under the form of a purchase, to evade the statute of usury, then such purchase was lawful, which prayers the court gave as prayed, and to which the defendant excepts.

And the defendants counsel thereupon prayed the court as follows: if the jury find and believe from the evidence aforesaid, that for several months before the execution and assignment of the bond or note mentioned and described in the covenant on which this suit is brought, there were such negotiations and propositions pending between said John Moncure, (acting in behalf of defendant.) and said Philip Alexder, as are mentioned and set forth in said affidavits of Moncure, and Alexander, and in the papers, and exhibits therein referred to, that the true and genuine nature and object of such negotiations and propositions, and of the successive arrangements and understandings resulting from them, as really contemplated by both parties were that said Alexander should make an advance of money to defendant, up-

on a future bond or note of said Mary James, payable to defendant, and by her to be assigned to said Alexander, under the name and form of a sale of such bond or note at a discount, above the legal rate of interest; that such discount from the amount of such bond or note should be so adjusted, as that the difference between the full amount of the bond or note, and the sum advanced on it, should be equivalent to an interest at the rate of twelve per cent per annum, on the sum actually advanced for the time of forbearance, to be given on such bond or note; that all the said preliminary negotiations, propositions and arrangements, were just before the execution and assignment of the bond or note referred to, in the covenant set forth in the plaintiffs declaration, (such bond or note, being the same note under seal, or bill obligatory, above given in evidence by plaintiffs, with the said covenant, and annexed to the said original affidavit of said J. Moncure as aforesaid,) terminated in an arrangement so modifying the before pending propositions and arrangements aforesaid, as that said Alexander, should immediately advance the defendant, 2,340 dollars, and that defendant should assign to him a note or bond thereafter, to be drawn and executed by said Mary James, for such amount as should make the difference between the sum so advanced, and the sum to be ultimately received by him for the principal and interest, of such bond or note, equivalent to an interest of twelve per cent per annum, on the sum so advanced, according to the principal, on which said Alexander, in his aforesaid letter B 1, (copied in page 48,) to said Moncure, insisted that the profits of the transaction should be calculated and secured, and that the payment of such bond or note should be collaterally secured by a deed in trust of the land and slaves of said Mary James. That the said Alexander, in pusuance and execution of such arrrangement and understanding, did advance the said 2,340 dollars to defendant, or for her use; that the said Mary James, in the pursuance and execution of the same arrangement and understanding on her part, did afterwards, on the 28th Nov'r. 1828, execute and deliver the said note under seal, or bill obligatory of that date, and afterwards, on the 16th Dec'r 1828, duly execute and deliver to said J. Moncure, and P. Alexander, the said, and in trust bearing that date, as above given in evidence by defendants, and annexed to the said cross-examination of said Moncure, and marked D, 2, (copied in page 55,) and that the defendant, in the pursuance and execution of said arrangement and understanding, did assign the said bill obligatory, to said Alexander, immediately on the execution of the same by said Mary James; that the amount of said securities, and the time with which said Mary James was indulged by said deed, in trust for payment, were knowingly, and designedly calculated, and adjusted by and between said Alexander and said Moncure, in behalf of defendant, so as to produce in the end a yearly interest of 12 per cent, on the sum advanced during such time of indulgence; and that the principal and interest secured by the said instruments, were intended and designed by both said parties to amount, and did in fact amount, to greatly more than the sum so advanced with legal interest, for such time

of indulgence as aforesaid; and did in fact substantialy secure to said Alexander, a yearly interest of 12 per cent. on the sum so advanced by him. Then the jury, if they find such facts as aforesaid, satisfactorily proved, and fairly decucible from the evidence aforesaid, may properly infer, from such facts, and fairly presume that the transaction was substantially a loan within the meaning of the statute against usury; notwithstanding it may appear to have been made in the form and name of a sale of the said Mary James's bond or note; and then the jury may, from the same facts and circumstances, if proved and deduced as aforesaid, also properly infer and well presume, that the sum of money deducted and retained by said Alexander, from the nominal amount of said bond or note, was substantially usurious interest under another name, for the forbearance of the money so lent or advanced, which the court gave as prayed, to which the plaintiffs except; and pray the court to sign and seal this bill of exceptions, as well as the granting of the said defendant's prayer, as to the refusal to grant the prayer aforesaid of said plaintiff's, which is accordingly done this 24th day of May, 1838, And the said defendant, by her said cousel, having excepted as aforesaid, to the said instructions given by the court at the request of the plaintiff as aforesatd, also prays the court to sign and seal this her bill of exceptions to the said instruction, so given at the request or prayer of the plaintiff, which is also done this 24th May, 1838.

W. CRANCH, [SEAL.]
JAMES S. MORSELL. [SEAL.]

Schedule of all the evidence referred to in the foregoing bill of exceptions.

John Moncure's original affidavit referred to in exceptions, page,

The affidavit of John Moncure, taken to be read in evidence in an action of covenant, now depending in the circuit court of the United States, for Washington county, in the District of Columbia, in which Richard C. L. Moncure and Walker P. Conway, executors of Mary James, dec'd, are plaintiffs, and Ann R. Dermot is defendant, taken at the instance of said executors.

1st. Question by the executors of Mary James, examine the bond or bill obligatory, now exhibited to you, purporting to be the bond of Mary James, for the sum of two thousand six hundred and twenty dollars, dated on the 28th day of November, 1828, payable on demand to Ann R. Dermott, and by her assigned to Philip Alexander; state the circumstances under which that bond was executed and assigned, as far as you know them.

Answer. Some time within the year 1828, Ann R. Dermott informed me, she was in great want of money, and that she was to have between $2,000 and $2,500; and would I endeavor to raise about that sum for her, that if it could not be obtained at 6 per cent, she would give more. I replied, that I would, and after making some enquires of those I believed had money, and finding that the amount required,

could not be obtained at legal interest, I recommended to her to get her aunt, Miss Mary James, who was well known, and who had considerable property, to execute, to her, Ann R. Dermott, a bond (adding ten or twelve per cent to the sum which she required,) and by the sale of that bond, I believed the money could be obtained, upon better terms than any other way I could suggest. She appeared pleased with the idea of this arrangement, and accordingly did obtain the bond now exhibited to me, signed by Mary James, for the sum of two thousand six hundred and twenty dollars, dated on the 28th day of November, 1828, payable on demand, and requested that I would dispose of it for her, which I did to Philip Alexander, of the town of Fredericksburg, at a discount of twelve per cent from the gross amount of the bond. That bond is hereto annexed, and marked A, (copied in page 29.)

2d. Question by same. Did Philip Alexander, know that the aforesaid bond of Mary James was made for the purpose of sale; or that it was not executed *executed* for valuable consideration, passing from Mary James to Anne R. Dermott?

Answer. I did not inform Philip Alexander, that the bond of Mary James was made for the purpose of sale, and I believe, had he have been informed of that fact, he would not have purchased the bond, not a word passed between us on that subject, I had no reason to believe he had any knowledge of the fact.

3d. Question by the same. Did Mary James know that the aforesaid bond was sold at a discount?

Answer. I do not remember that we ever had any conversation about the sale of the bond; nor have I any reason to believe she knew it was sold at a discount.

4th Question by same. Examine the paper now exhibited to you, purporting to be the obligation of Ann R. Dermott, dated on the 12th day of August, 1829, and binding the obligor to pay and discharge the aforesaid bond, and all interest that might accrue thereon, state by whom, and for what purpose that obligation was drawn and executed?

Answer. Some time after the sale of the bond to Philip Alexander, Miss Anne R. Dermott, exhibited to me a paper which she had drawn up and signed, and which she informed me, was to be delivered to her aunt, Miss Mary James. I believe it is the same paper now exhibited to me, dated 30th day of May, 1829, marked B, and hereto annexed, (copied in page 30.) The object of which was to show thereafter, that the said bond of Mary James for two thousand six hundred and twenty dollars, payable to Anne R. Dermott, and sold to Philip Alexander, was a loan to her, the said Anne R. Dermott, and that she was to discharge the said bond, when payment was required by the said Alexander. After examining this paper or obligation, I thought it was not sufficiently full or explanatory, and prepared the one now exhibited to me, and referred to in this question, marked C, and hereto annexed, (copied in page 31,) which Miss A. R. Dermott received, and said she would sign and deliver it to her aunt, Miss Mary James. I have examined the signature of Anne R.

Dermott to the paper last referred to, and dated the 12th August, 1829. I believe it to be her handwriting, I consider myself perfectly acquainted with her handwriting, having frequently seen her write, and also received many letters from her.

5th Question by same. How much was due upon the true bond of Mary James referred to in the first question at her death, and by whom, and at what time or times was the money so remaining due, paid after her death?

Answer. The bond of Mary James referred to above, was placed in my hands after her death, by Philip Alexander, for collection; and I found the balance due on said sum to be twenty-one hundred and sixty-nine dollars and seventy-seven cents, with interest from the 8th day of May, 1832, after deducting the payments made, according to the statement annexed to the bond, and hereto annexed, (copied in page 32,) which said balance with interest, was paid by Richard C. L. Moncure, and Walker P. Conway, executors of Mary James, dec'd, as follows, viz: six hundred dollars on the 6th of December, 1833. Three hundred and forty-six dollars and fifty-two cents, on the 28th day of December, 1833; also one thousand dollars on the same day, and four hundred and thirty-five dollars and fifty-five cents, on the 31st day of December, 1833, for which said several sums of money so paid by the said executors of Mary James, dec'd., the said Philip Alexander executed his receipt in my presence, dated the 31st of December, 1833, and which receipt is now before me, and hereunto annexed, (copied in page 33;) some time after this receipt was delivered, an error was discovered in the interest calculation, from which it appeared that the true balance due on the 31st December, 1833, was $425 87, instead of $435 55 cents, the amount paid by the said executors as aforesaid; the difference has been refunded by me to the said executors, for the said Philip Alexander.

And further this deponent saith not.

JOHN MONCURE.

DISTRICT OF COLUMBIA,
Washington county, to wit.

This day, John Moncure personally appeared before me a justice of the peace, of the county aforesaid, within the said county and district, and made oath that the facts stated in the affidavit or deposition, to which his name is subscribed, and which is on this sheet of paper, are true to the best of his knowledge and belief, and I hereby send and certify to the circuit court of the United States, for Washington county, in the District of Columbia, the said affidavit or deposition with the papers therein referred to, and thereto annexed, which papers were so annexed, when the said oath was made.

Given under my hand and seal this 2nd day of June, 1836.

CLEMENT T. COOTE,
J. Peace.

And I also certify, that the papers hereunto attached, were so at-

tached before the affidavit was made in relation to the foregoing statement.

CLEMENT T. COOTE,
J. Peace.

Agreement of defendant's counsel, to admit the foregoing deposition in evidence.

2d JUNE, 1836.

I agree to admit this deposition in evidence, with such cross-examination of the witness as may be taken hereafter, on questions transmitted to the witness. But if he should die before cross-examination, this deposition to be nevertheless admitted. The trial at next term not to be delayed for want of such cross-exmination.

W. JONES,
For Defendant.

Papers referred to in the foregoing affidavit, and annexed thereto.

A.

Referred to in exceptions, and in the foregoing affidavit, (pages 15, and 24, 39.)

$2,620.

On demand, I bind myself, my heirs, executors and administrators, to pay to Anne R. Dermott, her executors, administrators, or assignees, the sum of two thousand six hundred and twenty dollars, for value received, with interest from the date thereof.

Given under my hand and seal, this 28th day of November, 1828.

MARY JAMES, [SEAL.]

On the back of which said paper marked A, was the following endorsement, to wit:

I assign the within to Philip Alexander, for value received this 1st day of December, 1828.

ANN R. DERMOTT.

Paper marked B, referred to in the foregoing affidavit, page 26.

Know all men by these presents, that I, Ann R. Dermott, are held and firmly bound unto Mary James, in the just and full sum of twenty-seven hundred dollars, of lawful money of Virginia, to be paid to the said Mary James, her certain attorney, her executors, administrators or assigns, for the true payment whereof I bind myself, my heirs, executors, and administrators, firmly by these presents, sealed with my seal, dated this thirtieth day of May, in the year eighteen hundred and twenty-nine.

The condition of the above obligation, is to secure Mary James in the above mentioned sum of money, to Philip Alexander, for which her property is under a deed of trust, in case the said Ann R. Dermott should fail to pay the full am't. to the said P. Alexander.

ANN R. DERMOTT, [SEAL.]

Witness,
DADE HOOE, jr.

Paper marked C, referred to in the exceptions, and the foregoing affidavit, page 15, and 26.)

Whereas, Mary James has executed her bond or note, dated the 28th day of November, 1828, payable to me on demand, for the sum of twenty-six hundred and twenty dollars, which said bond or note was merely loaned to me, for the purpose of raising money upon, and whereas, I have since the execution of said bond or note as aforesaid, assigned it to Philip Alexander, of Fredericksburg, for value received of him, I do therefore, hereby bind myself, my heirs, executors, and administrators, to pay and discharge the said bond or note, with all interest that may accrue thereon, when the same shall become due and payable.

Given under my hand and seal, this 12th day of August, 1829

ANN R. DERMOTT, [SEAL.]

Statement and receipt referred in the foregoing affidavit, page 27.

Miss Mary James,
To Philip Alexander, Dr.

To your bond, to Ann R. Dermott, to bear interest from Nov'r. 28th, 1828, - - -	$2,620 00
" Interest to April 19th, 1831, 2 y'rs. 4 mn's 22 days, - - - - -	376 62
	$2,996 62
Deduct this sum paid by Ann R. Dermott, April 19th 1831, - - - - -	180 00
	$2,816 62
Interest on $2,816 $\frac{62}{100}$, from April 19th, 1831, to Dec'r. 27th, 1831, 8 m'ns, 8 days, - -	116 18
	$2,932 80
Deduct this sum paid by Ann R. Dermott, December 27th, 1831, - - - -	200 00
	$2,732 80
Interest on $2,732 $\frac{80}{100}$ from Dec'r. 27th, 1831, to February 7th, 1832, 1 mo. 11 days, - -	18 66
	$2,751 46
Deduct this sum paid by Ann R. Dermott, Feb'y 7th, 1832, - - - - -	225 00
	$2,526 46
Interest on $2,526 $\frac{46}{100}$, from Feb'y 7th, 1832, to May 8th, 1832, 3 mo's 1 day, - - -	38 31
	$2,564 77
Deduct this sum paid by Ann R. Dermott, May 8th 1832, - - - - - -	395 00
Due Philip Alexander, May 8th, 1832, - -	$2,169 77
Interest to 6th December, 1833, 1 y'. 6 mo's 29 days, - - - - - - -	205 79
	$2,375 56
Deduct this sum paid by W. P. Conway, and R. C. L. Moncure, exe'rs of Mary James deceased, -	600 00
	$1,775 56

Amount carried forward.

Amount brought forward, - - -	$1,775 56
Interest to the 28th Dec'r. 1833, - - -	6 51
Due - - - -	$1,782 07
By this sum from R. C. L. Moncure, and W. P. Conway, exe'rs of Mary James dec'd. per Henry S. Dawson, - - - - -	346 52
	$1,435 55
This sum from same as executors of Mary James, dec'd, - - - - - -	1,000 00
	$435 55

Rec'd. December 31st, 1833, from Richard C. L. Moncure, and Walker P. Conway, executors of Mary James, dec'd, four hundred and thirty-five dollars and fifty-five cents, the balance in full of Mary James's note, to Ann R. Dermott, which was assigned to me by the said A. R. Dermott, and is hereto annexed. The within is a correct statement of the said note and interest, with the payments made thereon. The exe'rs. of Mary James, have paid me as follows, viz: 6th December, 1833, six hundred dollars, 28th Dec'r. 1833, three hundred and forty-six dollars and fifty-two cents, also one thousand dollars, and also four hundred and thirty-five dollars and fifty-five cents, the said balance in full.

PHILIP ALEXANDER.

The above is the receipt, and the within is the statement referred to, in the answer to the last or fifth question.

J. MONCURE.

Questions to John Moncure Esq., by way of cross-examination on his affidavit heretofore taken, and filed on the part of plaintiffs.

1. Examine the paper marked F 1, annexed to defendants affidavit, filed in this case on the motion for new trial; and say whether it be not the original note under seal of the parties, whose names and seals are subscribed and affixed thereto ?

2d. In what Bank was said note lodged for collection by Poultney and son, or Evan Poultney, and was not Thomas Ledden, to whom the same is endorsed, cashier of that bank, and one of the parties to said note ?

3. Did not said Beale, Ledden, and yourself, take collateral security of said Mary James, (by the deed of trust on her lands and slaves, to Arthur A. Morson, whereof a copy of the record is annexed to defendants said affidavit, and marked D 1, copied in page 51,) by way of indemnifying you there against your liabilities, under said note, as specified in said office copy of the deed of trust, which please examine ?

4. Please examine the paper marked A 1, (copied in page 47,)

annexed to defendants said affidavit, purporting to be a letter dated 14th March, 1828, from you to defendant; say if it be not an original letter of that date, from you to her, in your own handwriting?

5. Did you not, in that letter, truly report the then progress and state of the negotiation you were then carrying on with Mr. Philip Alexander on her account, and what he then proposed and insisted on, as the terms and conditions on which he would agree to advance the money, and is not he the person meant and referred to in that lettter by the description of "Mr. A?"

6. Was the defendant, at the date of that letter, in possession of any such note for $3,400, as is mentioned in said letter, or was any such then, or at any time, before or afterwards, drawn by Miss Mary James, or in any manner assigned by defendant to Mr. Alexander, if, so what became of it?

7. Did said Miss James ever execute any deed of trust, or lien, or security, on her lands or slaves, to secure payment of a note for $3,400 to Mr. Alexander, or any deed of trust, lien, or other security, for any note or money whatever, to Mr. Alexander, except the deed of trust to yourself on her lands and slaves, dated 10th December, 1828, to secure to Mr. Alexander the said Miss James's note to defendant, assigned by defendant to him, dated 28th November, 1828, for $2,620, and annexed to your own affidavit, taken and filed in this suit on the part of plaintiffs?

8. Was the said Miss James present at the conversations between you and the defendant, on the subject of raising money to meet the note to Poultney & Son, or had you any conversation on the subject with Miss James *on the subject*, from the time you commenced your negotiations with Alexander, in March, 1828, till November, or Decembr, 1828, when they were brought to a close; particularly at the first conversation mentioned in your said affidavit?

9. Did not Miss James manifest some interest and anxiety for the success of the defendant in her endeavors, through your assistance and agency, to raise the money necessary to enable her to take up the note to Poultney & Son?

10. Did not the defendant live in the house with her aunt, the said Miss James, in the year 1828, when you were first engaged to assist in procuring the money for her, as mentioned in your said affidavit, until the business was brought to a close with Mr. Alexander in the fall following?

10½. Did not the defendant, afterwards, reside a considerable time in Stafford, a near neighborhood to her said aunt, and in habits of frequent intercourse with her?

11. Did you ever observe that the defendant, whilst the negotiations with Mr. Alexander were going on, or any time whilst you were engaged in good offices to raise the money for her, showed any disposition to conceal from her said aunt the steps she was taking, through your agency, to raise the money, or did she ever, directly or indirectly, caution you to keep the transaction from the knowledge of her said aunt?

12. Were not the said Miss James and Mr. Alexander well ac-

quainted, and had they not dealings together, some years before the transactions now in question?

13. Was not the money which defendant wished to raise, and for which she mentioned her willingness to pay more than legal interest, in her conversation with you, as stated in your said affidavit, wanted by her for the sole purpose of providing, in due time, for the said note to Poultney & Son, falling due in November, 1828?

14. Was not the $2,200 which you expected to obtain for her from Mr. Alexander, on Miss James's note for $3,400, (as mentioned in your said letter, dated 14th March, 1828,) intended to be applied, when obtained, exclusively to the purpose of taking up the said note to Poultney and Son, at its maturity?

15. Please examine again the said note to Poultney and Son, (F. s. copied in page 60,) and the endorsements thereon, and say if it was not duly taken up in bank, through the said Mr. Ledden, the cashier, at maturity, without being protested, or permit it lie over, or be dishonored?

16. Were you well acqainted with the handwriting of said Thomas Ledden, and is the memorandum, endorsed on said note, of the several sums making up the amount of the note paid in, all in the handwriting of said Ledden, or in whose handwriting?

17. Were not all those sums paid in through the defendant's means or procurement; that is to say, the sum stated as paid by T. Ledden, on account of Robert James; was not that money borrowed by her of said Robert James, or placed at her disposal by him? The check on the United States Bank, at Washington, was not that her check, or one furnished to Mr. Ledden by her? The $2,340, stated as paid by P. Alexander, was not that the amount which you say Alexander had agreed with you to pay for Miss James's note, assigned to him by defendant for $2,620, at a discount of 12 per cent.

18. What is the meaning of that part of the memorandum, as to a balance of $36, due on your note to Ledden? Did he advance so much on your account to make up the sum necessary to take up the note to Poultney & Son? Had you undertaken to pay any part of that for defendant—had you funds of his in your hands to the amount, or did she afterwards, and when, place funds in your hands?

19. Did Mr. Alexander pay into the hands of Miss Dermott, or into your hands for her, any part of the money which he had agreed to advance on, or for Miss James's note or bond, assigned to him by defendant?

On the contrary, did he not insist, and was it not understood from the very commencement of your negotiations with him, that whatever money be so advanced, should be directly applied by himself to the taking up of the note to Poultney & Son, at maturity, and that sufficient funds besides should be provided at the same time for taking up the said note, and was not this the condition on which he always insisted?

20. Did you not always understand his object, in insisting on that condition, was to make sure that the property, included in the said deed of trust to Mr. Morson, for the indemnity of Mr. Beale, Mr,

Ledden, and yourself, was first cleared of that lien, so as to leave it free to a deed of trust, on the same property, to secure Miss James's note or bond, to defendant, to be assigned to him?

21. Did not Miss James, on or about the 10th December, 1828, execute a deed of trust, of that date, to yourself as trustee, on the same property before included in the said deed of trust to Mr. Morson, to secure the payment, in two years after date of the note or bill under seal, from Miss James to defendant, and by her assigned to Alexander, and annexed as exhibit A, (copied in page 29,) to your said affidavit; and of which deed of trust to you, a certified copy from the record is annexed to defendant's said affidavit, and marked D 2, (copied in page 55,) as now exhibited to you?

22. Do you know or believe, that Mr. Alexander had any personal interviews with defendant, in relation to the business in question, before its completion? Or were all the terms and conditions, on a compliance with which, he, from time to time, insisted, before he would agree to advance money upon the security of Miss James's note or bond, and deed of trust, communicated by him to you, and through you to her?

23. Did the understanding between the defendant and Mr. Alexander. as to his advance of $2,200 on, or for her aunt's note or bond, for $3,400, as stated in your said letter to her, dated 14th March, 1828, rest on the footing stated in that letter, until the November following, when the negotiation was resumed, and new arrangements, modifying the first understanding, were made? Or was there any intermediate modification of the terms, and what, between March and November?

24. When the negotiation with Mr. Alexander, recommended in November, 1828, with a view to a final arrangement, preparatory to taking up the note to Poultney & Son, falling due in that month, were there not several proposed modifications of the terms and conditions on which Mr. Alexander was to advance the required sum, which preceded the final arrangement, in execution of which, he paid the said $2,340 into bank? For example, please examine the following original documents, annexed to defendant's said affidavit, viz: C 1, (copied in page 57,) purporting to be a bond from Miss James to defendant, dated 22d November, 1828, conditioned for the payment of $2,880 on demand, endorsed in blank by defendant; and B 1, (copied in page 48,) purporting to be an original letter, dated 24th November, 1828, from said Alexander to yourself; E 1, (copied in page 58,) purporting to be the draft of a letter, unsigned, to Mr. P. Alexander, dated 25th November, 1828; also examine the letter now here produced, A 2, (copied in page 47,) purporting to be a letter dated 28th November, 1828, from said Philip Alexander to Miss Mary James.

25. Is the body of the said bond and condition (C 1, mentioned in the last question) so far as it is in manuscript, in your own handwriting, or in whose; the signature in that of said Mary James, and the endorsement in that of the defendant?

26. Where was that bond prepared by you, and at whose instance? was it not at your own house, and was not Mr. Alexander there at

the time; and was it prepared to fulfil so much of your and his then understanding of the terms and conditions, on which he was to advance money to assist in taking up the note to Poultney & Son, and did you not deliver or send it to Miss James, or to the defendant, in order to its being executed?

27. Is not the letter B 1, mentioned in the 24th question, (copied in page 48,) from Alexander to you, all in his own handwriting? was it not written in reference to, and in explanation of his views and intentions in the then state and condition of the understanding of the terms and conditions on which he was to advance money to take up the note to Poultney & Son, and of which the said bond (C 1, copied in page) was intended to be in part execution?

28. Was that letter (B 1,) sent or carried by you immediately you received it, or when, to Miss James or to the defendant? and did you show them that letter and leave it with them?

29. Did you, at the same time you sent that letter, or when, make out and send to Miss James, the draft of a letter for her to transcribe and sign, as a letter from her to Alexander? and is the said draft (E 1,) what you wrote and sent, or delivered to Miss James for that purpose, and is it not all in your own handwriting? or if not prepared for such purpose, as the draft of a letter from Miss James to Mr. Alexander; for what purpose, or with what view, was it drawn? Was that draft made by you at the same time you filled up the bond for $2,880, and were both sent together to Miss James? Was Mr. Alexander present or privy to the preparation of said bond or draft?

30. Do you know, or did you understand from either Miss James or Mr. Alexander, that she had followed your advice, and written him a letter according to your said draft? State all you know, or have heard, from any of the parties relative to the writing of such a letter.

31. Is not the said letter (A 2,) from Alexander to Miss James (dated 28th November, 1828,) and the superscription on the envelope thereof, all in the handwriting of said P. Alexander?

32. Was that letter transmitted through your hands from Mr. Alexander to Miss James, or delivered by you to her? Have you ever seen it before now, and what do you know concerning the writing and transmission of it? And can you recollect or ascertain what day of the month or week you sent or delivered that letter?

33. Is not that letter, according to the best of your knowledge and belief, in answer to the one written him by Miss James, from your said draft, (E 1,)?

34. Were not the details of the arrangement and understanding with Mr. Alexander, (indicated by these four documents referred to in the 24th question,) finally so modified, by the arrangement actually carried into effect, as that instead of Mr. Alexander's advancing $2,350 on the assignment of Miss James's bond for $2,880, payable on its face on demand, but to be collaterally secured by a deed of trust on her property, which should give five years for the payment of the bond, with the addition of legal interest for the five years, and make the bond payable by annual instalments of $500; was not this projected arrangement so modified, as that the sum to be advanced was reduced from $2,350 to $2,340, the amount of the bond from $2,880

to $2,620, and the time of payment from five years to two, as the transaction was actually consummated and carried into effect by the advance of $2,340, and by the bond or note under seal, assigned to Mr. Alexander, and the deed of trust, dated 10th Dec'r, 1828, to you?

35. What do you mean by saying in your said affidavit, that you disposed of the bond to Mr. Alexander, "at a discount of 12 per cent. from the gross amount of the bond?" Was not the sum which Mr. Alexander advanced on the bond, so arranged, as that upon receiving the gross amount of the bond at the end of two years, with the addition of legal interest from that time, he would have received interest, at the rate of 12 per cent. a year, on the sum actually advanced, and compound interest on each years interest, upon the very basis of calculation insisted on, in his said letter to you of the 24th Nov., 1828; that is to say, taking $2,340, as the sum advanced by him, and $2,620, with the addition of two years interest, as the gross amount of the bonds, does it not yield him in two years, such an annual rate of interest, a fraction over or under?

36. As the deed of trust from Miss James to you, collaterally securing the bond for $2,620, with interest in two years, was not executed till 10th Dec'r, 1828, and as it appears from Mr. Alexander's letter to you, that on the 24th Nov'r. just before he paid the $2,340 into bank, he was not satisfied with the security, and required explanation, please say if he did not, (as he intimates in his said letter he would do,) pay the money into bank, with an understanding with Mr. Beale, Mr. Ledden, and yourself, that you three should stand responsible to him for the return of the money, if an arrangement for the security, satisfactory to himself, should not be made; and were you not held under such responsibility, till the execution and acceptance of the deed of trust?

37. Did Mr. Beale, Mr. Ledden, or yourself, enter into any written undertaking with Mr. Alexander, to see his money returned to him, in case the security was not arranged to his satisfaction; or did it rest on a verbal understanding, or mere acquiescence on your part in the terms of his said letter?

38. Was your brother R. C. L. Moncure, usually employed or consulted by Miss James, or by the defendant, as attorney or counsel, about the time of the transactions in question, and before and after?

39. Did he draw the deed of trust, or any other of the papers relative to these transactions, or was he consulted about them by any one?

40. Had you, either during the life of Miss James, or after, especially after you had Miss James's bond in your hands to collect for Mr. Alexander, conversations, with your said brother, relative to the nature and origin of the transactions?

41. In whose handwriting, respectively, are the three original documents, A, B, C, annexed to your said affidavit?

42. What do you mean by saying in your affidavit, that the object of the bond, therein referred to, as marked B, was to show thereafter, that the bond of Mary James, for $2,620, payable to Miss Dermott,

and sold to P. Alexander, was a loan to her, Miss Dermott? How does it show it was such loan, and what objection was there to its appearing that the bond sold to Mr. Alexander, was lent by Miss James, to her niece, Miss Dermott?

43. Are you not the surety, or one of the sureties, for the plaintiffs in their official bond, as executors of the last will, &c., of said Mary James; and do you not, therefore, perceive an interest from your liability to the devisees or legatees under said will, for the money paid by the executors to Mr. Alexander, if it appears he had no title to receive it, and they paid it in their own wrong, without recourse against the defendant to recover it back?

44. What are the ages, situations, and conditions, of the persons who stand between the defendant and the reversion or the remainder of her aunt Miss James's estates, upon the contingency of those persons dying without lawful issue, at the time of their deaths; and what, in your opinion, and according to the most probable calculations, from the conditions and habits of those persons, are the chances that the estate, or a considerable portion, will ultimately devolve on her?

A 1.

Referred to in the foregoing interrogatories to John Moncure, page 34.

DR. MISS:

According to your request, and my promise, I attended, in the best manner I could, to your business, on yesterday, in Fred'g. Mr. A. finally determined that he will give you $2,200 for Miss Molly James' bond, payable to you in five years, for $3,400. He will require a deed of trust from your aunt, to secure this debt, upon her land and slaves; and also, require that you shall, by Novem'r next, (when your debt to Poultney & son, becomes due,) place into his hands the balance, that is, the difference between the $2,209 and the am't of Poultney's debt, and let him pay to Poultney, when he will take a release from him of your aunt's property, conveyed to secure that debt, and then the property will be alone answerable for the bond you will assign to him.

In haste,
I am very resp'y,
Your friend, and ob't serv't,
JOHN MONCURE.

1828, March 14th.

On the back of the above, was the following superscription, to wit:

Miss Anne R. Dermott.

A 2.

Referred to in the foregoing interrogatories, page 41.

FREDERICKSBURG, 28*th Nov.*, 1828.

DEAR MADAM:

I received your letter this morning, and am willing to take the bond, provided you will agree to pay me five hundred dollars annually, and the balance at the expiration of the five years, and upon the debts being made perfectly secure.

Yours, respectfully,
P. ALEXANDER.

On the back of the above, was the following superscription, to wit:

Miss Mary James, Stafford.

B 1.

Referred to in the foregoing interrogatories, pages 21, 40, 41.

FREDERICKSBURG, 24 *Nov.*, 1828.

DEAR SIR:

I understand there is probably some dispute about the title of Miss M. James to the land, and as the profit on the transaction in which I am about to engage will be small, I will have nothing to do with it, unless every thing is clear, and perfectly indisputable.

Five years is a long time to look ahead, and to have my hands tied up for that time, with an uncertain and disputable security, is a situation in which I am not disposed to be placed. I wish you to ascertain from Miss M. James, distinctly, the nature of the title to the land which she proposes to convey, whether Strother has any claim or title in it. The land originally, I understand, belonged to her brother and father. I wish to know how she became entitled to the whole; that is, whether by purchase from her brothers and sisters, or how? And whether regular conveyances have been made to her? If she purchased from them in trust? I wish all the information necessary, to enable me to estimate, fairly, and properly, the nature of her title? I wish to know, also, whether there is no interfering claim by Strother, or others, in relation to the slaves? a portion of them, I understand, *I understand*, belonged to her mother. Did she will them to her? or did she purchase the interest of the legatees or distributees? It is absolutely necessary that I should have all this information, before I engage in the transaction; there is now but little time left to obtain it, perhaps too little. If I pay the $2,350

on Wednesday, it must be with the distinct understanding, that if the business be not arranged, to my entire satisfaction, that Mr. Ledden, Mr. Beale, and yourself, refund me the money I pay; which will leave you all precisely in the situation you would be placed, if I had nothing to do with the business. This will give you an opportunity of obtaining the information I wish in relation to the title of the land and slaves.

I cannot pay the money on Wednesday, without having a distinct understanding with Mr. S., Mr. B. and yourself, as to the repayment of all the money I pay, in case the business shall not be arranged to my satisfaction.

Your mo. ob. st.,
P. ALEXANDER.

You entirely misunderstand my views, if you suppose I was willing to purchase paper to produce me 12 per cent on the money paid at the end of five years. My views was, that it should, on the money advanced, produce me annually 12 per cent. You will find upon a calculation, that the sum I advanced, by compounding the interest at the end of each year, will not produce to me more than about 8 per cent. Now it can hardly be expected, that I would advance money, and wait five years, upon a security somewhat doubtful, and at last to receive only 8 per cent., or a little over common bank interest, paid each 60 days and compounded. I—willing to enter into the transaction, if I can realize what were my views—12 per cent upon the money annually.

P. A.

On the back of the above, was the following superscription, to wit:

Mr. John Moncure, Stafford.

B 2.

Referred to in the foregoing interrogatories, page .

OFFICE, BANK U. STATES,
Wash'n, Nov. 14, 1828.

The sum of six hundred and twenty-eight dollars $\frac{33}{100}$ stands to credit of Miss Anne R. Dermott. This sum will be paid to her order, on the return of this certificate.

RD. SMITH,
Cashier.

On the back of the above, was the following endorsement, to wit:

Anne R. Dermott. Credit my account. Thomas Leddon, Cash'r.

C 1.

Referred to in the foregoing interrogatories, page 40.

Know all men by these presents, that I, Mary James, am held and firmly bound unto Ann R. Dermott, in the just and full sum of five thousand seven hundred and sixty dollars, to be paid to the said Ann R. Dermott, her ceriain attorney, her heirs, executors, administrators, or assigns; to which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, jointly, and severally, firmly by these presents, sealed with my seal, and dated this 22d day of November, one thousand eight hundred and twenty-eight.

The condition of the above obligation is such, that if the above bound Mary James do, and shall well and truly pay, or cause to be paid, unto the said Ann R. Dermott, her certain attorney, her executors, administrators, or assigns, the just and full sum of two thousand eight hundred and eighty dollars, on demand, then the above obligation to be void, or else to remain in full force and virtue.

Signed, sealed, and delivered, in the presense of

MARY JAMES. [SEAL.]

On the back of which bond, is the following endorsement;

"Anne R. Dermott."

D 1.

Referred to in the foregoing interrogatories, page 34.

This indenture, made and entered into this 31st day of March, in the year of our Lord 1826, between Mary James, of the county of Stafford, of the first part, Arthur A. Morson, of the town of Fredericksburg, of the second part, and William Beale, of Falmoth, John Moncure, of Stafford county, and Thomas Sedden, of Fredericksburg, of the third part, witnesseth; that, whereas, the said William C. Beale, John Moncure, and Thomas Ledden, at the special request, and for the sole benefit and accommodation of the said Mary James, have become jointly, and severally, bound with the said Mary James, and Ann Dermott, in the following notes or obligations, payable to Thomas Poultney & Son, of Baltimore, and bearing equal date with this indenture, to wit: one for the sum of two hundred and five dollars sixty-seven cents, due, and payable, on the 23d day of November, 1826, one other for the same sum, due, and payable, on the 23d day of November, 1827, and one other for the sum of thirty-six hundred and thirty-three dollars sixty-one cents., due, and payable on the 23d day of November, 1828, all without interest; and, whereas, the said Mary James is willing and desirous, effectually, to secure, and harmless keep, from any loss, damage, or injury, the said William C. Beale, John Moncure, and Thomas Ledden, and their respective heirs, executors, and administrators, on account of

the liability incurred by them in becoming jointly, and severally, bound in the notes or obligations aforesaid, with the said Mary James and Ann Dermott.

Now, this indenture witnesseth, that the said Mary James, for, and in consideration of the premises, and for the further consideration of the sum of *the sum of* one dollar to her in hand paid, by the said Arthur A. Morson, before the sealing and delivery of these presents, the receipt whereof she doth hereby acknowledge, she, the said Mary James, hath given, granted, bargained and sold, and by these presents, doth give, grant, bargain, and sell, unto the said Arthur A. Morson, the following lands and slaves, to wit:

A tract of land in the county of Stafford, now in the occupancy of the said Mary James, and her sister, Alice Bird, containing, by estimation, four hundred and sixty-seven acres, be the same more or less; also, one other tract in the said county, containing about twenty acres, more or less, purchased by the said Mary James from Jones; and one other tract, supposed to contain, also, about twenty acres, purchased from Honey, and others; the deeds for the two last mentioned tracts, which adjoin the first mentioned tract, may be referred to for a fuller and further description, and the following slaves, to wit: Nelly, John, Dick, Nancy, Albert, Henry, Lidia, Patience, Charlotte, Susan, Sally, Randall, and Ann; to have the said several tracts of land, with all and singular their rights, priviliges, and appurtenances, unto the same belonging; and all the right, title, interest, and claim, or demand, either in law or equity, of the said Mary James, in or to the same; and the said slaves, with the future increase of the females, unto the said Arthur A. Morson, his executors, administrators, or assigns, forever, upon trust; nevertheless for the following special uses, purposes, and trusts, that is to say, if the said Mary James, or the said Ann Dermott, shall fail to pay, or cause to be paid, the amount of the said notes or obligations, as aforesaid, when the same shall become due and payable; that then, and in that case, the said Arthur A. Morson, his executors or administrators, having first advertised the time and place of sale in some newspaper printed in or near the town of Fredericksburg, for at least four weeks, successively, shall proceed to sell at public auction, for ready money, the lands and slaves hereby conveyed, or intended to be conveyed, or so much and so many thereof, as shall be sufficient to accomplish the objects of this trust, and from the proceeds arising from such sale, shall in the first place pay and satisfy all reasonable costs and charges attending the execution of this trust, then pay and discharge the amount of the said several notes or obligations, as aforesaid, or if the said W. C. Beale, John Moncure, or any or either of them, or any or either of their heirs, executors, or administrators, shall have paid the amount of said notes, or any part thereof, then pay to the party, or parties, who shall have so paid their executors, administrators, or assigns, the amount that may have been paid, with lawful interest thereon, from the time such payment or payments shall have been made, and the residue, if any there be, pay to the said Mary James, her executors, administrators, or assigns.

In witness whereof, the parties have hereunto set their hands and seals, the day and year first above written.

Signed, sealed, and delivered, in presence of

MARY JAMES, [SEAL.]

STAFFORD COUNTY COURT, CLERK'S OFFICE,
March 31*st*, 1826.

An indenture of trust from Mary James to Arthur A. Morson, for the benefit of Wm. C. Beale, and others, was aknowledged in the clerk's office, by the said Mary James, to be her hand and seal, act and deed, and admitted to record.

Teste:

J. M. CONWAY, *C. C.*

D 2.

Referred to in the foregoing interrogatories, pages 21, and 39.

This indenture, made and entered into, this 10th day of December, 1828, between Mary James, of the county of Stafford, of the first part, John Moncure, of the said county, of the second part, and Philip Alexander, of the town of Fredericksburg, of the third part, witnessseth, that whereas, the said Mary James is justly indebted to the said Philip Alexander, in the sum of twenty-six hundred and twenty dollars, due by note or single bill, bearing date the 28th day of November, 1828, and payable on demand, which said note was assigned to the said Philip Alexander, by Ann Dermott; and whereas, the said Mary James is willing to secure to the said Philip Alexander, his executors, administrators, or assigns, the amount of the said note, with lawful interest thereon from its date, to be paid on the first day of December, 1830, provided he, the said Philip Alexander, will grant her indulgence for the payment of the said principal sum, and the interest until that period, which the said Philip Alexander, with the assent and approbation of the said Ann Dermott, the assignor of the said note, has agreed to, as is signified by his becoming a party to, and executing this deed.

Now this indenture witnesseth, that in consideration of the premises, and for the further consideration of the sum of one dollar, to her, the said Mary James, in hand paid, by the said John Moncure, before the sealing and delivery of these presents, the receipt whereof she doth hereby acknowledge, she the said Mary James hath given, granted, bargained and sold, alienedand confirmed, and by these presents doth give, grant, bargain and sell, alien and confirm unto the said John Moncure, the following lands and slaves, to wit:

The lands in the county of Stafford, now occupied by the said Mary James, Mrs. Alice Bird, John Dermott, &c., being all lands belonging to the said Mary James, in the said county, supposed to contain about five hundred acres, be the same more or less, lying on the waters of the Accokeck run, and the following slaves, to wit:

Nelly, John, Dick, Nancy, Albert, Hannah, Betty, Benjamin, Lydia, Patience, Charlotte, Susan, Sally, William and Mary; to have and to hold the said land, with all and singular the rights, fixtures, and and appurtenances, unto the same belonging, or in anywise appertaining, and the said slaves, with their future increase of the females, unto the said John Moncure, his executors or administrators, forever; upon trust nevertheless, for the following special uses, purposes, and trusts, that is to say, if the said Mary James, her heirs, executors, or administrators, shall fail to pay, or cause to be paid, in or before the first day of December, in the year one thousend eight hundred and thirty, the said sum of twenty-six hundred and twenty dollars, with lawful interest, from the 28th day of November, 1828, to that time, unto the said Philip Alexander, his executors, administrators, or assigns; that then, and in that case, the said John Moncure, his executors or administrators, first advertising the time and place of sale, for at least thirty days, successively, in some newspaper printed in or near the town of Fredericksburg, shall proceed to sell, at public auction, for ready money, the said lands and slaves, and out of the proceeds arising therefrom, in the first place pay all reasonable costs and charges attending the said sale and the exeecution of this trust; then pay to the said Philip Alexander, his executors, administrators, or assigns, the said sum of twenty-six hundred and twenty dollars, with interest thereon, from the 28th day of November, 1828, that being the date of the note; and the residue, if any there be, pay to the said Mary James, her executors, administrators, or assigns.

In witness whereof, the parties have hereunto set their hands, and affixed their seals, the day and year first before written.

MARY JAMES, [SEAL.]

STAFFORD COUNTY COURT, CLERK'S OFFICE,
December 10th, 1828.

An indenture of trust, from Mary James to John Moncure, was acknowledged in the clerk's office, by the said Mary James, to be her hand and seal, act and deed, and admitted to record.

Test:

J. M. CONWAY.

A copy.
Teste: J. M. CONWAY, *C. C.*

E 1.

Referred to in the foregoing interrogatories, page 40.

NOVEMBER *25th*, 1828.

MR. PHILIP ALEXANDER:

DEAR SIR: My niece, Miss Ann R. Dermott, informs me, she

contemplates selling and assigning to you my bond for $2,880, dated the 22d of this month, and payable on demand. I am anxious to obtain time for the payment of the same; and propose, should you like the assignment, to place the debt upon a footing of perfect safety, if you will grant the time I wish, say five years from the date of the bond, by conveying to a trustee of your own selection, land and slaves amply sufficient to secure both the principal and interest of the debt, to be paid at the expiration of five years from the date of the note. If you take an assignment of the note, and accede to my proposition, I hereby bind myself, my heirs, executors, and administrators to execute a deed of trust, when tendered to me on all my property, viz: All my land in the county of Stafford, and my slaves. The property is, at present, under a lien to secure Mr. Moncure, Mr. Beall and Mr. Ledden, as my securities to Mr. Poultney, of Baltimore; but these gent. will release the property, or they may if they think proper, give you the benefit of the lien.

Very respectfully,
Yours, &c.,
E.

E 2.

Referred to in the foregoing interrogatories, page

NOVEMBER 25th, 1828.

MR. P. ALEXANDER:

DEAR SIR: My niece, Miss Ann R. Dermott, informs me she contemplates selling and assigning to you my bond for two thousand eight hundred and eighty dollars, dated the 22d of this month, and payable on demand. I am anxious to obtain time for the payment of the same, and propose, should you take the assignment, to place the debt upon a footing of perfect safety, if you will grant the time I wish, say five years from the date of the bond, by conveying to a trustee of your own selection, land and slaves amply sufficient to secure both the principal and interest of the debt, to be paid at the expiration of the five years from the date of the note. If you take an assignment of the note, and acceed to my proposition, I hereby bind myself, my heirs, executors and administrators, to execute a deed of trust when tendered to me, on the following property, viz: All my lands in the county of Stafford, and my slaves, Nelly, John, Dick, Nancy, Albert, Hannah, Betsy and Benjamin, Lydia, Patience, Charlotte, Susan, Sally and William. The property is at present under a lien to secure Mr. Moncure, Mr. Beall, and Mr. Ledden, as my securities to Mr. Poultney of Baltimore, but these gentlemen will release the property, or they may, if they think proper, give you the benefit of the lien.

Very respectfully, &c.
MARY JAMES.

On the back of the above was the following superscription, to wit:

"MR. P. ALEXANDER,
Fredericksburg."

F 1.

Referred to in the foregoing interrogatories, page 37.

We, Mary James, Ann R. Dermott, William C. Beall, and John Moncure, of the county of Stafford, and Thomas Ledden, of the town of Fredericksburg, do hereby promise, and bind ourselves, our heirs, executors and administrators, jointly and severally, to pay to Thomas Poultney and Son, of Baltimore, their executors. administrators or assigns, the just and full sum of three thousand six hundred and thirty-three dollars and sixty-one cents, on or before the 23d day of November, 1828. As witness our hands and seals this 31st day of March, 1826.

Attest:

J. M. CONWAY, as to MARY JAMES and ANN R. DERMOTT.	MARY JAMES,	[SEAL.]
	ANN R. DERMOTT,	[SEAL.]
	FRANCIS LEDDEN,	[SEAL.]

On the back of the foregoing bond was the following endorsements, to wit:

"Thomas Poultney and Son, pay Thomas Ledden, Esq., cash. or order.

EVAN POULTNEY."

Paid by T. Ledden on account of Robert James,	$629 20
Check on U. States Bank at Washington,	628 33
Paid by P. Alexander,	2,340 00
	3,597 53
Balance due T. Ledden,	36 09
For which he has a note of J. Moncure,	$3,633 62

Deposition of John Moncure.

Answer to 1st question. I believe the paper marked F 1, is the original note, under seal of the parties, whose names and seals are subscribed and affixed thereto.

Answer to 2nd question. I do not recollect in what bank said note was lodged for collection. Thomas Ledden was cashier of the office of discount and deposite, of the Farmers' bank of Virginia, at Fredericksburg, and he was one of the securities in said note.

Answer to 3d question. We did take from Mary James, a deed of

trust on her land and slaves to indemnify us as her securities in the said notes. The deed marked (D 1,) is, I believe *a* copy of the said deed of trust.

Answer to 4th question. I have examined the paper marked (A 1,) It is an original letter fron me to the defendant, A. R. Dermott, in my own handwriting.

Answer to 5th question. I did to the best of my knowledge, truly report the then progress and state of the negotiation I was carrying on with Mr. Alexander on her account. He is the person meant and referred to in my letter by the discription of Mr. A.

Answer to 6th question. I do not remember that the defendant was in the possession of any such note for $3,400, as is mentioned in said letter. Nor do I remember that any such note was at any time, before or afterwards, drawn by Miss Mary James, or in any manner assigned by defendant to Mr. Alexander. Miss Ann R. Dermott was at the time this negotiation was going on, a near neighbour to me, and frequently applied to me to aid her in her business transactions. About this time she requested me to aid her in raising a sum of money, which I promised to do. Not being able to borrow the sum she required at legal interest, and upon her insisting that she would have a sum of money if she had to pay more than legal interest, I then, as her friend, recommended to her, to endeavour to obtain (her aunt) Miss Mary James's note payable to herself for the amount she required, and I would endavour to sell the note upon the best terms I could, (I proposed that she could obtain her aunt's note, because she had considerable property in the neighbourhood, and was in good credit, and her note could be disposed of on better terms than any other note which I believe Miss Dermott could obtain.

Answer to 7th question. I do not believe that Miss Mary James ever did execute any deed of trust or lien, or security on her land or slaves, to secure payment of a note for $3,400 to Mr. Alexander. Nor any deed of trust, lien or other security for any note or money whatever to Mr. Alexander, except the deed of trust, dated 10th Dec. 1828, to secure the sum of $2,620.

Answer to 8th question. I do not believe Miss Mary James was present at the conversation between the defendant and myself on the subject of raising money to meet the note to Poultney and Son. Nor do I remember that I ever had any conversation on the subject with Miss James, from March, 1828, to November or December, 1828. She lived in a very retired situation, and I was very seldom in her company.

Answer to 9th question. I do not remember that Miss James ever did manifest any interest or anxiety for the defendant's success, during the time of my agency and assistance to raise the money for the defendant.

Answer to 10th question. I do not remember, but am under the impression, they did not live in the same house in the year 1828. Miss James rented the house and farm in which she formerly lived, to the defendant, and resided then in another house on the same farm about $\frac{3}{4}$ of a mile from the one rented the defendant.

Answer to 10th ½ question. Yes, she did reside some time in the county of Stafford, a near neighbour to her said aunt. I do not now know that they were in the habit of frequent intercourse, except about the time the negotiation was going on to raise money for defendant. At one period they were on bad terms—this was some time after the execu*tion* of the note or bond, sold to Mr. Alexander.

Answer to 11th question. I do not believe that the said defendant, did shew any disposition to conceal from her said aunt, the steps she was taking through my agency to raise money, nor did she ever, as I remember, directly or indirectly, caution me to keep the transaction from the knowledge of her said aunt.

Answer to the 12th question. I believe Mr. Alexander and Miss James were well acquainted. I do not remember any dealings between them some years before the transaction now in question.

Answer to the 13th question. I believe the money which the defendant wished to raise, was for the sole purpose of paying the debt due Poultney and Son, falling due in Nov. 1828.

Answer to 14th question. I do not remember that the $2,200 which I expected to obtain for the defendant, was intended by her to be applied exclusively to Poultney and Son's debt, but presume it was so intended. Mr. Alexander required that it should be so applied, in order to get a release of the property in the deed of trust, to secure Poultney and Son, I presume.

Answer to the 15th question. I believe the note was taken up at maturity without being protested, or permitted to lie over. But I do not remember by whom the money was paid into bank.

Answer to 16th question. I am well acquainted with the handwriting of Thomas Ledden. The memorandum endorsed on said note of the several sums making up the amount of the note paid in, is not in the hand writing of Thomas Ledden, but is in my own hand writing, and was made by me.

Answer to 17th question. I believe all the sums referred to in this question, were paid in through the defendants means as therein stated.

Answer to question 18th. I do not remember particularly the circumstances connected with that part of the memo. relating to the balance of $36, but presume that Mr. Ledden advanced that sum to make up the balance of Poultney and Son's debt at my request, and I gave him my note for the amount, which was thereafter paid either by the def't or myself. As I before stated, I was very frequently called on to attend to the def'ts business by her, and I may have advanced this sum for her, or she may have placed it in my hands after I informed her of the fact. I do not remember that she ever placed any funds in my hands for this purpose. I never did undertake to pay any part of Poultney and Son's debt for defendant out of my own means.

Answer to question 19th. I do not remember to whom the money was paid by Mr. Alexander. But believe he did insist that the money he was to advance for Miss James's note, should be applied to the payment of Poultney and Son's debt, and that debt should be entirely

discharged, in order that he might obtain a release of the property of Miss James, conveyed to secure the debt to Poultney and Son, which property was also in the deed of trust, to secure the note of Miss James's to the def't assigned to him, Alexander.

Answer to question 20. I did understand that Mr. Alexander's object was to make sure that the property included in the deed of trust to Mr. Morson for the indemnity of Mr. Beall, Mr. Ledden and myself, was first cleared of that lien, so as to leave it free to the deed of trust on the same property, to secure Miss James's note or bond to be assigned to him.

Answer to question 21. Yes, Miss James did execute the deed referred to in this question, and I believe on the same property before included in the said deed of trust to Mr. Morson.

Answer to question 22. I do not know, nor do I believe that Mr. Alexander ever had, any personal interview with the def't in relation to the transactions in question before its completion. All the terms and conditions in relation to the subject were communicated by him to me, and through me to the def't, so far as I now remember.

Answer to question 23. I do not remember that the understanding in relation to the advance of $2,200, referred to in this question, did or did not rest on the footing stated in my letter to the def't, dated 14th March, 1828, until the November following. Nor do I remember that there was any intermediate modification of the terms. Some time has elapsed since these transactions took place, and never expecting to be called on as a witness, I cannot remember all the particulars in relation to them.

Answer to question 27. The def't and myself had frequent conversations in relation to the money she wished to raise for Poultney and Son, and perhaps she submitted several propositions to me, between March, 1828, and November, 1828, for raising the amount she required. I cannot now recollect all the particulars in relation to the subject, but I remember in every applicaion I made to Mr Alexander to advance money, I avoided saying any thing to him in relation to the note or bond of Miss James's being executed for the purpose of rasing money upon it for the defendant, because I believe, if I did, he would at once have declined making any arrangement whatever, to advance the money required by the def't. In every application I made to him on the occasion, I called upon him to know what he would give for Miss James's note to the defendant for a certain sum. I never had directly or indirectly any interest whatever in the matter, further than to raise the sum required by the defendant, at her most earnest request, and as her friend; and I did pursue to the best of my knowledge, that course which I believed would effect the object which the defendant had in view, upon the best terms.

Answer to question 25. I answer affirmatively, to this question throughout.

Answer to question 26. I do not remember where the bond referred to in this question, was prepared by me, nor at whose instance, nor who was present, nor do I remember for what purpose it was prepared; I do not remember to whom I delivered the bond, but I pre-

sume, I sent it to the defendant in order to its being executed; and I think it probable it was prepared to be offered to Mr. Alexander.

Answer to question 27. The letter (B 1,) mentioned in the 24th question, is in the handwriting of Mr. Alexander, and was, I believe, written in reference to the explanation of his views and intentions, in relation to the money he was to advance for Miss James's note or bond, and which money was to be applied to the discharge of the debt due Poultney and Son by the def't.

Answer to question 28. I do not remember, in what manner the defendant obtained the possession of the letter (B 1,) but presume I must have handed it to her, in order to let her know Mr. Alexander's views, and the conditions on which he was to advance the money.

Answer to question 29. As I before stated, I do not know how the defendant obtained the possession of the letter (B 1.) The draft of a letter marked (E 1,) was made out by me, and I presume, handed to Miss James, for her to transcribe and sign as a letter from her to Mr. Alexander; I am under the impression, the letter (E 1,) was delivered to the defendant, to get her aunt to transcribe and sign the draft of the letter; (E 1,) is in my handwriting, but I do not remember what time it was sent or delivered. I do not believe Mr. Alexander was present when the said bond for $2,880, and the draft of the said letter was prepared, nor do I believe he was privy thereto. I am sure I should not have prepared either in his presence, for fear of defeating the object I had in view, to raise the money required by the defendant, for whom I was acting throughout the transactions, as her friend and agent.

Answer to question 30. I do not remember that Miss James or Mr. Alexander ever said or intimated any thing to me, in relation to the draft of the letter (E 1,) referred to in this question, nor any letter written in pursuance of this draft.

Answer to question 31. The letter (A 2,) from Mr. Alexander to Miss James, dated 28th Movember, 1828, is, I believe, in the handwriting of Mr. Alexander, and also the superscription on the envelope.

Answer to question 32. I do not remember that the letter referred to in this question, was ever seen by me before this day. I know nothing in relation to it, nor the transmission of it.

Answer to question 33. I do not know, as I before stated, I do not remember ever to have seen the letter before to-day, or to have heard any thing about its contents. It may, or may not have been an answer.

Answer to question 34. I cannot possibly remember the particulars in relation to the transactions referred to in this question, as I before stated, the time has been so long ago, that it is impossible to remember the various circumstances that transpired at the time. The papers connected with this transaction, show more about it, than I can recollect, after the money was obtained for the defendant, I thought nothing more about it, untill called on as a witness. I had, until I seen the papers, forgotten that there ever was any other note

than the one annexed to my former affidavit, or any modification of the proposed arrangement.

Answer to question 35. I mean by saying, in my former affidavit, that I disposed of the bond to Mr. Alexander, "at a discount of 12 pr cent. from the gross amount of the bond." That 12 pr cent. calculated upon the amount of the note sold Mr. Alexander, say $2,620 is $314 40, which is deducted, and the remainder $2,305 60, paid for the note, this was my idea of the deduction, which was to be made, but I find upon examining the calculations, that the deft. received $2,340, and not $2,305 60, according to my understanding at the time, as well as I now remember; I cannot account for the difference. The calculations can be made from the papers, and the result ascertained better than I can do so from memory.

Answer to question 36. I do not remember the circumstances referred to in this question, but think it probable, Mr. Beale, Mr. Ledden, and myself, were held responsible until the execution and acceptance of the deed.

Answer to Question 37. I do not remember that there was either a written or verbal understanding with Mr. Alexander, to see his money returned, in case the security was not arranged to his satisfaction. I do dot remember any thing in relation to this part of the transaction.

Answer to question 38th. I do not know that my brother, R. C. L. Moncure, was employed or consulted by Miss James or the defendant, as attorney or counsel about the time of the transactions referred to; I am under the impression that neither the defendant, nor did Miss James, ever consult or advise with him, because I do not remember, that I ever heard either one of them say one word about such advise or consultation.

Answer to question 39. My brother, R. C. L. Moncure, did not draw the deed of trust, nor do I believe he drew any other papers in relation to the transactions, nor do I believe he was ever consulted about them by any one.

Answer to question 40. I do not remember that I ever had any conversation, (during the life of Miss James or after, in relation to the origin and nature of this transaction,) with my brother, R. C. L. Moncure, until I ascertained that I was to be summoned as a witness to Washington, when and where my former affidavit was taken in this case.

Answer to question 41. The document A, annexed to my former affidavit, is in the handwriting of myself. The document B, also annexed, is in the handwriting of Ann R. Dermott, and that marked C, is in the handwriting of myself.

Answer to question 42. I mean by saying in my affidavit, that "the object of the bond therein referred to, as marked B, was to show thereafter, that the bond of Mary James for $2,620, payable to A. R. Dermott, and sold to P. Alexander, was a loan." That as I before stated, when A. R. Dermott requested my aid to obtain for her the money she required, after finding it could not be borrowed at legal interest, I advised her to obtain the loan of her aunt Mary James's

note or bond for the sum required, adding 10 or 12 per cent thereto, and I would endeavor to sell it for her, about the same time I suggested to her, or she may have first suggested to me, the propriety of her executing some paper to her aunt, which would go to show that the bond obtained from her aunt for sale was a loan, and that the money in fact was ultimately to be paid by the said A. R. Dermott. I remember that such a paper was expressly mentioned by us on one or two occasions, and that I advised her to execute such a paper. I am under the impression, that some time after, A. R. Dermott presented to me a paper prepared by herself, to be delivered to her aunt, in which she acknowledged herself bound to pay the money, for which her aunt had executed her note, or to that effect; I am under the impression, that in looking over the paper presented to me, that I did not think it would answer the purposes, or was sufficiently explanatory, and I prepared another, which is marked (C,) and annexed to my former affidavit; this I believe is the same paper; I also believe the paper B, is the one prepared by A. R. Dermott, and presented to me for examination. That paper, as well as I remember, was not written in my presence, and she may not have remembered the precise amount of her aunt's note loaned to her. The objection to letting Mr Alexander know the bond sold to him, was a loan to A. R. Dermott, was this: I believe from my knowledge of him, and of his business transactions, that if I informed him that the note or bond was a loan, he would have declined making the advance for it, which he did. If I had intended to inform him of this fact, I should have applied to him to loan the money on A. R. Dermott's note, with Mary James as security at once, and not have adopted the plan of obtaining Miss James's note to be sold. I considered at the time, that it was the best mode to pursue, to obtain the money for A. R. Dermott, and I still believe, the money at the time, could not have been obtained upon better terms for her. As I have before stated, I never had any interest directly or indirectly in the transaction, except to accommodate the said A. R. Dermott.

Answer to question 43. I am the security, or one of the securities, for the plff's. in their official bond as executors of the said Mary James. But I do not consider that I have the smallest interest whatever in the matter; I consider the plaintiffs undoubtedly good for any recovery which may possibly be had against them in this case, and greatly more than any such recovery.

Answer to question 44. I am not sufficiently well acquainted with the circumstances referred to in this question, to make any statement about them.

Questions by the executors of Mary James, to John Moncure.

1st. Have you any reason for believing that the plaintiffs, or either of them, had any information whatever, prior to the institution of this suit against the defendant, as to the terms on which the said bond of Mary James to Ann R. Dermott, for $2,620, had been acquired by Philip Alexander? Did you ever make any communica-

tion to either of them on the subject, or had they or either of them, any such connexion or intimacy with either of the parties concerned, that is, with Philip Alexander, Mary James, or Ann R. Dermott, as can be supposed to have led to any communication from them, or either of them, to the plaintiffs, or either of them, in regard to the said bond?

Answer. I have not any reason for believing, that the plaintiffs or either of them, had any information whatever, prior to the institution of this suit against the defendant, as to the terms on which the said bond of Mary James to Ann R. Dermott, for $2,620, had been acquired by Philip Alexander; I do not remember, that I ever did make any communication to either of them on the subject, until I understood I was to be called on as a witness in the present suit. I do not believe from my knowledge of the parties, that the plaintiffs, or either of them, had such connexion or intimacy with Philip Alexander, Mary James, or Ann R. Dermott, as would have led to any communication from them, or either of them, to the plaintiffs, or either of them, in regard to the said bond.

2d. Did the defendant, during the life time of her aunt, Mary James, manifest a strong desire to discharge the said bond for $2,620, and to save her aunt's property from sale, under the deed of trust, and did she, so far as you know or believe, ever object to the payment of the bond before the institution of this suit, on account of any pretended usury in the transaction, or on any account whatever?

Answer. The defendant did, in her conversations with me on the subject, manifest *a* a desire to discharge the said bond for $2,620, and to save her aunt's property from sale under the deed of trust, and I never heard her object to the payment of the bond before the institution of this, on account of any pretended usury in the transaction. But, on the contrary, she expressed, on several occasions, her great anxiety to pay the amount.

3. Where did the defendant reside at the death of her aunt, Mary James, and where has she since resided?

Answer. The defendant resided, at the time of her aunt's death, and since, in Washington city, I believe.

4th. After the death of Mary James, did not Philip Alexander demand of her executors, payment of the balance due on her said bond of $2,620, and did he not threaten to enforce the execution of the deed of trust on her property, in case of non payment?

Answer. Mr. Alexander placed this bond in my hands for collection, after the dath of Miss Mary James, (I being trustee in the deed from her to secure the payment, and directed of me to demand its payment, and if not paid in some reasonable time, to proceed to sell the property, under the deed of trust, of which, I believe, I immediately informed the executors of Mary James.

Additional interrogatories to John Moncure by defendant:

1. When were you first given to understand that you would, or might be called on, as a witness in this suit?

Answer. About the time of the institution of the suit.

2. You have added to your answer to question 14, at its conclusion, by way of correction, the words, "I presume," what circumstances, and train of subsequent reflections, lead you to doubt and to qualify your answer by the words just referred to?

Answer. Upon reading over my answers, I made the addition of the words "I presume," because I thought my idea would be better expressed in my answer to question 14; I had no other reason for the addition of the words.

CORPORATION OF FREDB'G, Commonwealth of Virginia, } *To wit:*

Personally appears before me a Justice of the Peace, for the corporation and Commonwealth aforesaid, Mr. John Moncure, who makes oath in due form of law, that the answers above to the accompanying interrogatories, are just and true to the best of his knowledge and belief.

Given under my hand this 18th May, 1838.

JOHN HART, *J. P.*

Deposition of P. Alexander.

JAMES'S EX'ERS, *vs.* ANN R. DERMOTT. } Questions to Philip Alexander, Esq.

1. Were you well acquainted with the late Thomas Ledden, Cashier of the Farmers' Bank of Virginia, at Fredericksburg; were you well acquainted with his handwriting, and have you often seen him write and his writing; were you and he partners in business, and for what time?

2. Are you well acquainted with Mr. John Moncure; how long have you known him; have you frequently seen his writing, and are you well acquainted with his handwriting?

3. Were you well acquainted with the late Miss Mary James; had you and she formerly much dealings together; have you often seen her handwriting, and were you well acquainted with it?

4. Are you now an officer of the said bank, and in what capacity, and how long have you been so?

5. Please examine the note, or bill, obligatory from Mary James to the defandant, and, by the latter, assigned to you, as the same stands annexed to John Moncure's deposition, taken and filed in this suit on behalf of plaintiffs, and now shown you, and say in whose handwriting is the body of that paper?

6. Were you informed, in 1828, of the existence of a note or bill obligatory, for $3,633 61, drawn by Mary James, Ann R. Dermott, William C. Beele, Thomas Ledden, and John Moncure, to Thomas Poultney & Son, falling due in November, 1828?

7. Did you see to the taking up of that note at maturity, and assist in meeting it when due at the said bank?

6½. Please examine that original note now shown you, and the endorsement and memoranda thereon, (see the exh't. F 1, to defendant's affidavit filed in this case,) also examine the paper now shown to you, marked B 2, and say, 1st, if that note has the usual bank marks on it, of a note passing through said bank for collection, and taken up in bank at maturity; 2dly, in whose handwriting is the memorandum of the several sums paid in to make up the amount necessary to meet that note? explain the several items in the memorandum and say, 1st, whether the first item was not meney furnished by Rob't. James on account of Miss Durmott, out of funds in the Cashier's hands, belonging to said Robert James? 2dly, if the second item was or was not the said check or certificate of deposite, (B 2,) above shown you; and, whether the writing on the back thereof purporting to be the endorsement of said Ledden, as cashier, be in his hand-writing? 3dly, whether the third item be or be not the sum you had agreed with John Moncure to give for the note or bill obligatory of Miss James, assigned by deft., to you; and 4thly, whether the last item of $36 was paid by Mr. Ledden himself on John Moncure's note, and that note afterwards accounted and paid by him to Mr. Moncure?

7½. Had there been negotiations for a long time pending between Mr. John Moncure, on behalf of deft., and yourself for an advance of money by you to assist her in taking up the said note to Poultney & Son; and with a view to that question please examine the following documents, as the same stand annexed to defendant's affidavit, filed in this suit, and now shown to you.

1st. The document marked A 1; in whose handwriting is that letter, and does it report with substantial correctness or not; what passed between you and the writer on the subject of it?

2dly. The document marked B 1, is that or not your own handwriting; was it delivered or sent by you to J. Moncure, and by him to Miss James and Miss Dermott; or was it intended by you he should show it to them?

3dly. The document marked C, 1, in whose handwriting is the body of that instrument, (so far as in M. S.) filled up? were you present when it was written, or were you, in any manner, privy to, or informed of the preparation of it before it was sent to Miss James for execution.

4th. The document marked E 1, in whose handwriting is that paper? were you present at the writing of of it, or in any manner privy to, or informed of its being written? from whom was intended that the lettter should be written to you, pursuant to that draft? Did you receive any letter from the said Miss James, the contents of which, literally or substantially, followed that draft? if so, produce it.

8. Examine the document now shown you, (not being among those annexed to said affidavit,) and marked A 2. And say if that be or be not your handwriting, as well the superscription on the envelope as the letter inside?

9. To whom did you deliver that letter, or through whose hands, send it to Miss James?

10. Was the letter from her to which your said letter of the 28th November, 1828, purports to be an answer, conformable to said draft in Jno. Moncure's handwriting (E 1,) and bearing the same date? please produce, and annex hereto, the letter to you from Miss James, to which your said letter is in answer, and if it be a different letter, the one also which she wrote you upon the model of John Moncure's said draft of a letter, (E 1.)

11. Did all these negotiations, and propositions, and modifications of terms, and in your at last agreeing to advance $2,340, on Miss James's said note or bill obligatory for $2,620, secured to you by her deed of trust on lands and slaves, allowing two years for the payment of the amount of the note with interest, or in what other arrangement?

12. When you paid the $2,340 into bank, as part of the sum necessary to meet the note to Poultney & Son, at maturity, did you do so with such an understanding, as you intimate in your said letter to Jno. Moncure, (B 1,) that Messrs. Beale, Ledden, and Moncure, should stand responsible to you for a return of the money, if Miss James failed to satisfy your doubts as to the sufficiency of the security on her land and slaves, or as to her title to the lands?

13. Did you consider these persons relieved from their responsibility to you, until you were afterwards satisfied with the security, and she secured you by the deed of trust on her land and slaves, dated 10th December, 1828, to John Moncure, as trustee?

Answer of Mr. Philip Alexander.

1. I was intimately acquainted with the late Thomas Ledden, Cashier of the Farmers' Branch Bank, Fred'burg. I have often seen him write, and know his handwriting well; he and myself were partners in the mercantile business, from about the year 1816 till 1824.

2. I am well acquainted with Mr. John Moncure, and have known him intimately since the year 1809. I have frequently seen him write, and believe I could distinguish his writing at any time.

3. I had but a slight acquaintance with Miss Mary James. She had transactions of business with Mr. Ledden and myself, while partners, during the course of which, I occasionally saw her handwriting. I have likewise, though rarely, seen her handwriting since. I think I should be able to distinguish it now, but cannot feel positive in this respect.

4. I have held the situation of teller, in the Farmers' Branch Bank, at Fred'burg, since October, 1831, and still continue to enjoy that office.

5. The body of that paper is in the handwriting of Mr. John Moncure.

6. My recollection of the transactions that occurred so many years since, is extremely faint. I have refreshed my recollection by reference to a letter written by me at the time, and to a letter from Miss James received at the same period, and think that I did know of the existence of the note referred to, though the matter had entirly escaped my memory.

7. I not recollect to have taken up the said note, at maturity, nor to have assisted directly in meeting it when due. During the pendency of a negotiation for the purchase by me, of a bond, of Miss Mary James's, I think I may, at one time, have contemplated paying a part of the said note, but afterwards, when I consummated that purchase, I think I paid the purchase money to Mr. John Moncure; whether any portion of that purchase money was by him applied to the liquidation of the said note, I cannot say, though I think it not improbable such was the case.

6½. The note marked F 1, appears to have been regularly passed through the said bank, and to have been taken up at maturity. It has the bank marks usual in such cases. The memoranda endorsed are in the handwriting of Mr. John Moncure. I have no knowledge of the several items alluded to. The endorsement, purporting to be that of Mr. Thomas Ledden, cashier, is in his handwriting. The amount of the third item is the precise sum which I paid for the bond of Miss James. I know nothing of the last item, nor by whom the sum of $36 was paid. I am likewise ignorant of any note accounted and paid to John Moncure.

7½. I think I had several interviews with Mr. John Moncure, in which the proposal made by him, as the agent of Miss Anne Dermott to me, to sell me a bond given by Miss James, was the subject of conversation; after some hesitation, I finally agreed to purchase a bond given by Miss James to Miss Anne Dermott, upon the understanding that the bond should be secured by a deed of trust on the lands and slaves of Miss James. I do not recollect that any distinct application was made to me to loan money in order to meet one debt due Poultny & Son; nor can I say that I knew the exact purpose to which the purchase money of the said bond was to be applied.

1st. The document marked A 1, is in the hand writing of Mr. John Moncure, and reports substantially the terms on which I consented to purchase the said bond, except that I have no recollection of having stipulated any thing respecting the dept due Poultney & Son.

2dly. The document marked B 1, is in my handwriting, and was sent by me to Mr. John Moncure; having addressed it to him, I of course, deemed it at his perfect disposal, but I did not know that if was to be shown or delivered to any one else in particular.

3dly. The document marked C 1, is filled up in the handwriting of Mr. John Moncure, I was not privy to its being prepared and sent to Miss James, nor was I present at its execution.

4thly. The document marked E 1, is in the handwriting of Mr. John Moncure. I did not know, nor was I inform d, of its having been written. I am likewise ignorant for whom it was prepared. I received a letter from Miss James, exactly similar. This letter I have produced marked E 2.

8. The letter referred to is in my handwriting, as is likewise the superscription.

9. I do not now recollect to whom I delivered the letter referred to, nor how it was conveyed to Miss James.

10. I have already produced the letter received from Miss James; a reference to which, will satisfy this interrogatory.

11. The negotiation with me, terminated in my acceptance of terms substantially, as stated in the interrogatory.

12. I do not think I ever paid any sum of money into bank on account of the note to Poultney & Sons. During the pendency of the negotiation for the purchase of the bond of Miss James, I understood that some doubts existed, as to Miss James's title to her land and slaves, and also that there was a lien on her land to secure the debt due Poultney & Sons. At one time, before my negotiations was consummaated, I contemplated discharging the debt due Poultney & Sons, and which I understtood would fall due in a few days before I had altogether satisfied myself of the title of Miss James, or had finally determined to purchase the bond. Had I done so, it would have been with the understanding, that if I did not subsequently conclude the negotiation in a manner satisfactory to me, the gentlemen referred to should be responsible to me for the repayment of what I advanced. A day or two afterwards, however, in another interview with Mr. Moncure, I was assured by him that the title should be cleared and left unincumbered, to meet the lien of a deed of trust for my benefit. Upon this assurance I concluded the bargain, and at once paid the purchase money to him. This is my impression of the transaction, but my recollection is not sufficiently distinct to enable me to speak with entire confidence.

13. Not having advanced the money, as contemplated, but having in reliance on Mr Moncure's assurance, completed my bargsin, and paid the purchase money, I looked to Miss James's property, which was to be disincumbered, as my security, and considered the gentlemen referred to exempt from responsibility; such, at least, is my present impression.

Questions by the Executors of Mary James.

1. Did you ever see the bond to Poultney & Son, of which you have spoken, or the deed of trust which had been executed by Mary James, to secure it before you were called on to give evidence in this case? Did you know whose debt it was, or had you in fact, any information about it, except that you had heard that there was a lien for its security on the property, which was to be conveyed by Mary James to secure the bond of $2,620 assigned to you?

Answer. I do not remember to have ever seen the note due Poultney & Son before my present examination; nor did I ever, so far as I recollect, see the deed of trust executed for its security. I think I understood, thas there was a debt due Poultney & Son, by note, in which, Mr. Ledden, Mr. Beale, and Mr. Moncure were endorsers and that there was a lien on the property of Miss James, to secure it. I do not remember to have been at any apprised, whose was the debt originally.

2d Question. Please examine the statement and receipt annexed to the affidavit of John Moncure, and say in whose handwriting is signature and receipt, and whether or not the payments purporting

in the receipt, to have been made by us as executors of Mary James, were in fact made by us?

Answer. The signature to the receipt is in my handwriting. The payments purporting to have been made by Miss Anne Dermott, were made by her at the dates stated in the statement, and those purporting to have been made by the executors of Mary James, were made by them at the dates stated in the receipt.

3d. Was Anne R. Dermott, the defendant, ever otherwise indebted to you, than as assignor of the bond of Mary James, for $2,620, aforesaid?

Answer. Not that I recollect.

PHILIP ALEXANDER.

COMMONWEALTH OF VIRGINIA.
Corporation of Fredericksburg, to wit:

This day Philip Alexander, whose name is above written, personally appeared before me, a justice of the peace of said corporation, and made oath, that the facts sfated in his foregoing answers to the interrogatories propounded to him by the parties in the case of Mary James's executors, plaintiffs, vs. Anne R. Dermott, defendant, depending in the circuit court of the District of Columbia, for Washington county, are true, to the best of his knowledge and belief.

Given under my hand this 18th day of May, 1838.

JOHN HART, *J. P.*

Deposition of Wm. C. Beale.

To the first Question. The signatures of Thomas Ledden, John Moncure, and William C. Beale, the two latter erased, are the signatures of the parties, with the handwriting of Mary James, and Anne R. Dermott. I am not familiar, but I have no doubt of their being genuine.

To 2d Question. I only know that Mr. Ledden was for some time before his death, cashier of the Farmers' Bank in Fredericksburg, and can say nothing further in answer to this question.

To 3d Question. I answer, we did.

To 10th Question. I answer that Miss Dermott and Miss Mary James lived with, or near, each other, somewhere about the year 1828, but at what precise time, I am unable to say.

To 12th Question. I answer, that Miss James and M. Alexander, were, I think, acquainted; but with their transactions with each other, I am not informed. I think I have understood Miss James kept an account at the store of Ledden and Alexander, when they kept store in Falmouth.

To Question 31. I answer, yes.

To Question 37. I answer, that I never had any written or other agreement with Mr. Alexander about this matter.

To Question 41. I answer, the documents, A and C, are in the handwriting of Mr. John Moncure; with the handwriting of document B, I am not familiar.

To all the questions, from 1 to 44, except those specifically replied to, I know nothing material *material.*

The above, are answers to the questions propounded to me, in the case of the executors of Miss Mary James vs. Anne R. Dermott, which questions are the same with those asked of John Moncure, in the same case.

FREDERICKSBURG, *May* 18, 1838.

Questions by the Executors of Mary James.

Was the debt to Thomas Poultney & Son, for which the bond marked (F 1,) and referred to in your first answer was given, the proper debt of Mary James, or of Anne R. Dermott; and if of the latter, why did the foamer execute the said bond, and the deed of trust to secure it?

Answer. The debt was due by Miss A. R. Dermott to Thomas Poultney & Son; and the reason that the bond was given as the proper debt of Mary James, was that Mr. Ledden, Mr. Moncure, and myself, were satisfied wiih the indemnity which Miss James had it in her power to give, and did give, and we had not the same confidence in the security which Miss Dermott would offer, and Mr. Ledden, as well as I recollect, thought it would be safest to make Miss James the first stgner of the bond.

Question of same. Please examine the receipt annexed to the affidavit of John Moncure, purporting to be the receipt of Philip Alexander, for monies received from the plaintiffs, and say, whether the singature to that receipt, is in the proper handwriting of the said Philip Alexander?

Answer. It is.

WM. C. BEALE.

SPOTSYLVANIA COUNTY, *to wit:*

The foregoing answers, to questions propounded to Mr. Wm. C. Beale, were this day sworn to before the undersigned, a justice of the peace for said county, this 18th day of May, 1838.

Given under my hand.

HUGH M. PATTEN, *J. P.*

Letters from Defendant produced by Plaintiffs.

WASHINGTON CITY,
Feb'y 25th, 1829.

DEAR AUNT:

I have received your two last letters, and cannot but sensibly feel your kindness to my mother and self in the offer you have made us the house and lot to live in, which in my present embarrassed situation, I do most gladly accept, though I could wish it was not under such trying circuwstances—to take possession of the place, which the folly

and imprudence of an only brother compels him to give up—who might have been the stay, comfort, and honor, of our family—but I trust in God, that all our trials will at last work together for our good. I feel ten times as much for him now that I ever did, being fully satisfied, from his three last letters to my mother, that he cannot be in his right mind; and to know that he has nothing left now, but to depend upon his own exertions; his situation is, indeed, a deplorable one; but, in his letters, he seems to think every body is coming to want but himself; perhaps it is from feeling his situation so keenly. I think if any one in the world has cause to complain of his treatment, it is you; and yet I fear it will not be long before pitty will take possession of every other feeling in your breast towards him. What do you think of his writing to my mother that he was going to commence the mercantile business in Fredericksburg? We should go down this week, and see about it—it was a quicker way of making money, than by the law. All is not right.

I am extremely sorrow, and neither did I wish you to undergo so much in getting the affidavits of Doc'ts. Carmichael, and Willford, I thought you would apply to Doc't Daniel for his, and through him, or some other friend, get the others; nor did I know that it was necessary to employ a lawyer, or I should have written to Mr. Morton, and got it done through him; I do not know where my expenses will end, as little as I can afford at this time. Who has told you, or what makes you think, that in having a guardian appointed for my mother, it will injure me or the sale of my property. I have consulted Col. Andrews, who is a very sensible man, and a better lawyer, than one-half that practice. Mr. Larned, Doc't Johnson, all advise me to it, and lawyer Jones, whom I employed, advised me to go through it. He told me if I did not, that my brother, or a creditor, could at any time have it done, and I know my brother is determined upon it, and my mother will not be satisfied without it. Mr. Jones told me it was the only legal way to settle the estate, and that the law allowed her the third of each lot, and the third of the income, and could not recover more of me. He also told me, that my brother could not recover a dollar from me that he had paid for my mother, and that the best plan was to have a guardian appointed, and have her estate settled up, let my brother exhibit his accounts, and if she is indebted to him, her guardian can settle with him legally, this course is the only one to prevent after-claps, and to ensure me a little rest; as to the sale of my property, it will not prevent that; I am only bound for the third of the income during her life, and I can give seurity for the part I sell to raise Mr. Alexander's money. I have a prospect of seling two lots in May, which I hope will make you as well as myself feel much at ease, and you need not fear that your land will be sold; property about the centre market has advanced astonishingly since last summer, and will continue to rise; I was applied to the other day to know if I would sell my property at all, and I have no doubt but I can get twenty-five thousand dollars for it, it is only in proportion to what it sells for in that part of the city, and I believe the person that applied was no other than Mr. Withers of Alexandria, though I wish it to be kept a profound secret. He is now buying up a great

deal of city property; quite flush of money. You may depend if I cannot sell my other property, I will sell this in time to save you. You request me to send you part of Green's money, and the $20, I did not expect I could get any of Green's money, untill the middle of April, at which time he shall be certain of it, and I was particularly anxious to know if he would wait. As I had not a dollar owing to me from the rents, I reserve to live upon, I have been obliged to use the most I drew from the bank, but not a cent for any thing that I am not compelled to get. I will, if it holds up raining to-morrow, turn out and see if I can collect any money, and will send you by Monday's mail, to buy in some corn; but I do not want you to buy in any corn for me, unless it goes very low, and you can keep it safe for me; it would be better to give more when I come down, than to have it stolen from me. Do you not think Doc't. Daniel would wait until April for the $20, I shall be obliged to keep one horse and a man, and I would like to have ground enough to keep them employed; my mother agrees to return with me, if I keep none but whites about me, which I must do at any rate, make a trial of it; I wish you would therefore try and get Mr. Heflin for me, to live in the kitchen; if you have made a bargain with him about the land, you could get some one else, and let me have him, as he seems to suit mama and myself better than any one else. I shall also try and get Mrs. Heflin, (his mother,) to live with us; but do you think I could buy Mr. Armstrong's horse, or will you let me know whether I could get one down there, and also who bought old Luce and all her offspring, if there is any chance for them, try what Mr. Heflin would ask from April, the balance of the year; if he cannot be got, look out for some one else you think would suit us. I do not wish it known that we will retun, or rather get to my brother's ears, for he urges me and mother by all means to remain in the city, though he knows how pinched I am for money, and how improper it would be for her to remain in any town, but particularly the city, after receiving two of his letters. I could hardly pacify her, he wrote a great deal, that he said Doc't Daniel informed him of, and in his last, he mentions you are to get the affidavits which he says uncle Strother told him of; do not let him hear any thing from you, for I believe he would do every thing he can to oppose me, and make my mother worse. Oh! it is hard case, that I not only have the whole of my mother's affliction, but he to aggravate it. I shall be very glad to join you in a cotton patch, for I wish to raise all I can. I wish you would let me know the price of pork; I thought two or three hundred would serve us; it is selling at $5 here, and if I can get any down there now, if not, I had better get it here; wood is selling at $8 per cord, and I have never paid less than $5 50; do think of the expense I am at. I will try and send you $20, if I cannot raise any more.

Yours affectionately,

ANN R. DERMOTT.

MISS MARY JAMES,
(near) *Stafford Co. House, Va.*

WASHINGTON CITY,
March 14*th*, 1829.

DEAR AUNT:

I duly received your letter of the 12th instant, and found from it, that you had not rec'd my last, wherein I stated I expected to get a $100 and forward to you, in consequence of Mrs. Turner's sending that sum to the bank in advance of the rent. I could not see Mr. Smith until this morning, and upon his examining my account, he found he could let me draw $190, and leave enough left with the rents coming in to meet the discount when due. He told me he would write this morning to Mr. Thomas Ledden, and get that amount placed to my credit in his bank, and I enclose you a check for the money in such a way, that I shall have to put you to the trouble again of going to Fred'g to draw it. I have requested Mr. Ledden to pay it to *you only*, and not to your order, for fear of an accident. I wish you to receive the money, give your receipt for it, and then, on your way back, you can pay it over to Mr. Green. This is all I can draw from the bank now, and indeed I hope it will be the last for some time, for I shall sell my other property to meet the payment of Mr. Alexander's claim against me. If you have used the $20 I sent you, I hope you can make out the balance of Mr. Green's money by selling some of the corn, for I am completely drained of money, and do not know when I shall be able to get any more. The little that is due me the 1st of April of my small rents, I suppose I shall get one-half, which will not amount to more than will pay Mr. Alexander. Please tell him it should have been settled in Jan'y, had I have returned, and I will certainly bring it down with me, which cannot now be long, I suppose he will think hard of your drawing it all when we both owe him. I have not as yet made you a deed of trust of my lots, for this reason only, that there are two persons wishing to buy two of the lots; one is to let me know after fishing, and the other during the spring, and in that time it would hardly be worth while to go to the expense, and should they bring the trouble afterwards of your relinquishment to, I am only waiting until they shall decide, and if not to buy, I shall immediately execute a deed of trust to you of all my property. I hope you do not think I regard making it public. I am not a man of business, that in making his money might prove an injury to him. I am well known to be involved, and the quarter part of my property given to secure it; but at the same time it is well known here, that it is worth double the amount of my debt, and besides, if it really was a great mortification to my feelings; I hope the feelings of principle within me, of making those secure, who had rescued, and, indeed, saved me, would out weigh every other consideration. Doct. Daniel wrote to me a few days since, for some Vaccine matter, stating that they had the small-pox on all sides of them, and no matter. I procured a small piece and forwarded to him on Friday. Dr. Johnson has given more to-day a part of which is for you, and therefore I inclose it in your letter. My mother was always doubtful whether my brother or myself ever took it sufficiently. The Doct., therefore, vaccinated me on Friday, and it shows already to have taken; of course it was not sufficient